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Speakers' presentations

EU DISABILITY LAW AND THE UN CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES

SEMINAR FOR NATIONAL CIVIL SERVANTS AND NGO STAFF

Trier, 29-30 May 2017



This seminar series has received financial support from the European Union' REC Programme (2014-2020). For further information please consult:
http://ec.europa.eu/justice/grants1/programmes-2014-2020/rec/index_en.htm

In cooperation with the European Foundations Centre (EFC) and the European Disability Forum (EDF), and with the support of the European Commission (Contracting Authority).

The information contained in this publication does not necessarily reflect the position or opinion of the European Commission.

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**EU DISABILITY LAW AND THE UN CONVENTION ON THE RIGHTS OF PERSONS
WITH DISABILITIES
SEMINAR FOR NATIONAL CIVIL SERVANTS AND NGO STAFF
Trier, 29-30 May 2017**

Implementing the UNCRPD in the EU

by

Rodolfo Cattani

European Disability Forum



This publication has been produced with the financial support of the European Union's REC Programme 2014-2020. The contents of this publication are the sole responsibility of the author and can in no way be taken to reflect the views of the European Commission.



European Disability Forum (EDF)

- The **European Disability Forum (EDF)** is an independent Non-Governmental Organisation (NGO) that defends the rights of 80 million people with disabilities in Europe.
- EDF is a **unique platform** which brings together organisations of persons with disabilities from across Europe. It is run by persons with disabilities and their families: a strong voice of and for people with disabilities in Europe.
- The **mission** of EDF is to ensure that persons with disabilities have full access to fundamental and human rights through their active involvement in the development and implementation of European policies concerning them.
- EDF is a founding member of the **International Disability Alliance (IDA)**.
- **Website:** <http://www.edf-feph.org/>

Evolution of disability assessment

- Medical/clinical model (disability is caused by the deficit of the person)
- Functional model (disability is caused by the limitation of functionality of the person, e.g. reduced or non-existent working ability);
- Social model (disability is caused by socially structured barriers or non-removal of them, excluding persons on the basis of their disability, e.g. denial of reasonable accommodation);
- Human-rights model (disability is caused by the denial of equal rights, unequal recognition before the law and segregation (e.g. forced institutionalization, substituted decision-making, denial of voting and electoral rights etc.).



UNCRPD: General principles - General Obligations

General principles (article 3)

- Respect for inherent dignity, individual autonomy and independence of persons;
- Non-discrimination;
- Full and effective participation and inclusion in society;
- Respect for difference and acceptance of persons with disabilities as part of human diversity and humanity;
- Equality of opportunity;
- Accessibility;
- Equality between men and women;
- Respect for the evolving capacities of children with disabilities and respect for their right to preserve their identities.

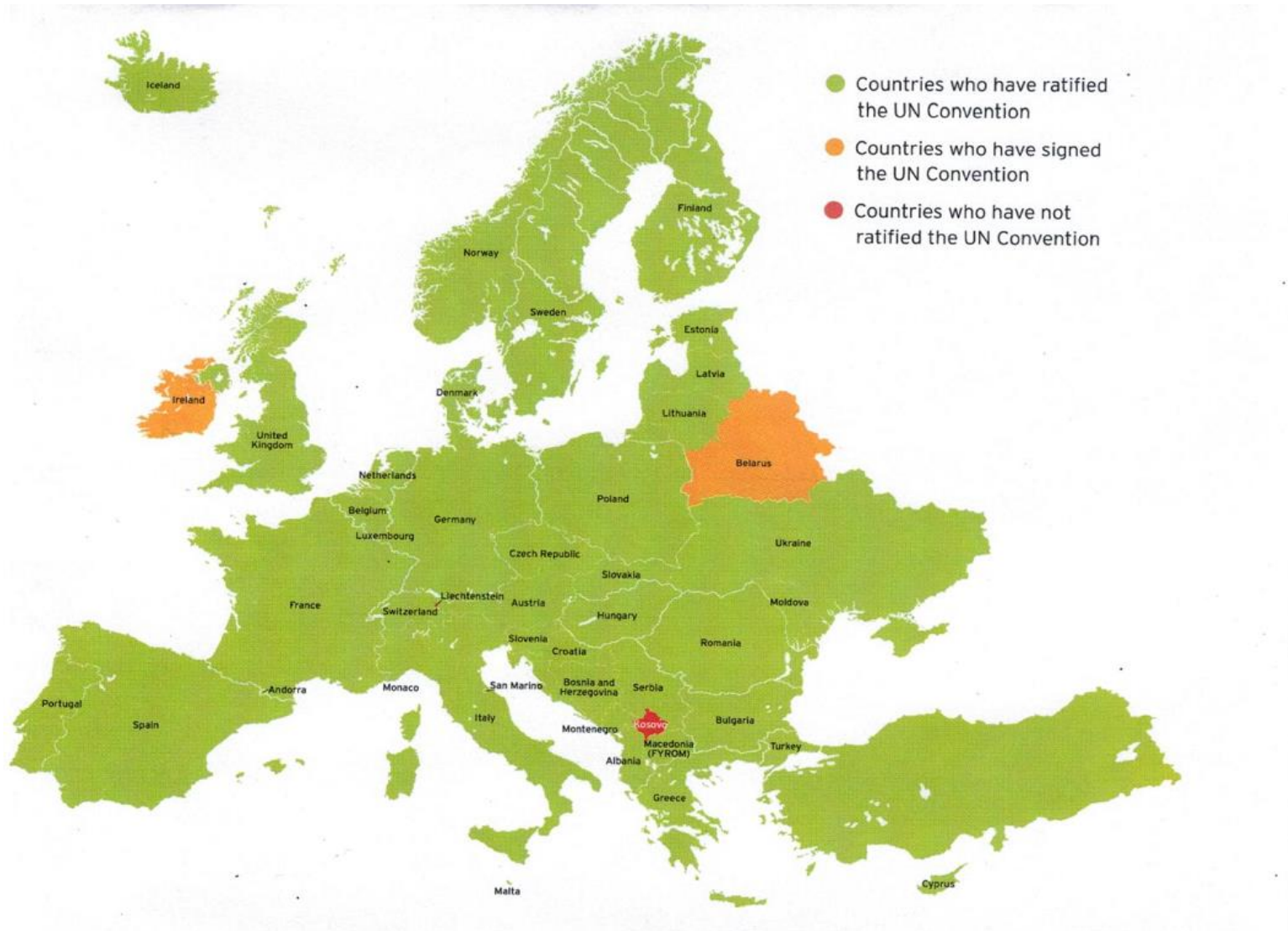
General Obligations (Article 4.3)

- 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.

Countries in Europe that have ratified the CRPD and the Optional Protocol

- The United Nations Convention on the Rights of Persons with Disabilities (CRPD) and the Optional Protocol were adopted on 13 December 2006 by consensus of the General Assembly of the United Nations (UN).
- On 30 March 2007, the CRPD and the Optional Protocol were opened for signature at UN Headquarters in New York.
- Currently, 173 countries worldwide (86% of UN members) and the European Union (EU) are States Parties to the CRPD.

Ratification of the UN Convention



Full text of the CRPD and the Optional Protocol

- <http://www.ohchr.org/EN/HRBodies/CRPD/Pages/ConventionRightsPersonsWithDisabilities.aspx>
- <http://www.ohchr.org/EN/HRBodies/CRPD/Pages/OptionalProtocolRightsPersonsWithDisabilities.aspx>

Reservations and declarations (1)

Reservation: A unilateral statement by a state when ratifying an international treaty which allows the state to be a party to the treaty, while excluding the legal effect of that specific provision in the treaty to which it objects. A Reservation represents a limitation on the commitment undertaken by a state with regards to certain rights of the treaty. However, international law does not allow states to make Reservations when they are “incompatible with the object and purpose of the treaty or its Optional Protocol”.

Declaration: A unilateral statement by a State Party on its understanding of a matter contained in a treaty or its interpretation of a particular provision in a treaty. However, it does not exclude or modify the legal effect of an international treaty.

Reservations and declarations (2)

According to article 46 of the CRPD, reservations incompatible with the object and purpose of the Convention shall not be permitted.

Reservations and Declarations to the CRPD:

www.treaties.un.org>Depositary>Status of treaties>Chapter IV-Human Rights>15. Convention on the Rights of Persons with Disabilities

https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mt_dsg_no=IV-15&chapter=4&lang=en

The United Nations Committee on the Rights of Persons with Disabilities (CRPD Committee) (1)

- A body of 18 independent experts nominated by the countries that have ratified the CRPD.
- CRPD Committee members are elected for a period of either two or four years and serve on the CRPD Committee in their individual capacities.

The United Nations Committee on the Rights of Persons with Disabilities (CRPD Committee) (2)

Current composition:

Name	Nationality	Term expires
Mr. Ahmad AL SAIF	Saudi Arabia	31.12.2020
Mr. Danlami Umaru BASHARU (Vice-Chairperson)	Nigeria	31.12.2018
Mr. Munthian BUNTAN	Thailand	31.12.2020
Mr. Imed Eddine CHAKER	Tunisia	31.12.2020
Ms. Theresia DEGENER (Chairperson)	Germany	31.12.2018
Mr. Jun ISHIKAWA	Japan	31.12.2020
Mr. Samuel Njuguna KABUE	Kenya	31.12.2020
Mr. Hyung Shik KIM (Rapporteur)	Republic of Korea	31.12.2018
Mr. Stig LANGVAD	Denmark	31.12.2018
Mr. Lászlo Gábor LOVASZY	Hungary	31.12.2020
Mr Robert George MARTIN	New Zealand	31.12.2020
Mr. Martin Babu MWESIGWA	Uganda	31.12.2020
Mr. Carlos Alberto PARRA DUSSAN	Colombia	31.12.2018
Mr. Coomaravel PYANEANDEE (Vice-Chairperson)	Mauritius	31.12.2018
Mr. Valery Nikitich RUKHLEDEV	Russian Federation	31.12.2020
Mr. Jonas RUSKUS	Lithuania	31.12.2018
Mr. Damjan TATIC (Vice-Chairperson)	Serbia	31.12.2018
Mr. Liang YOU	People's Republic of China	31.12.2018



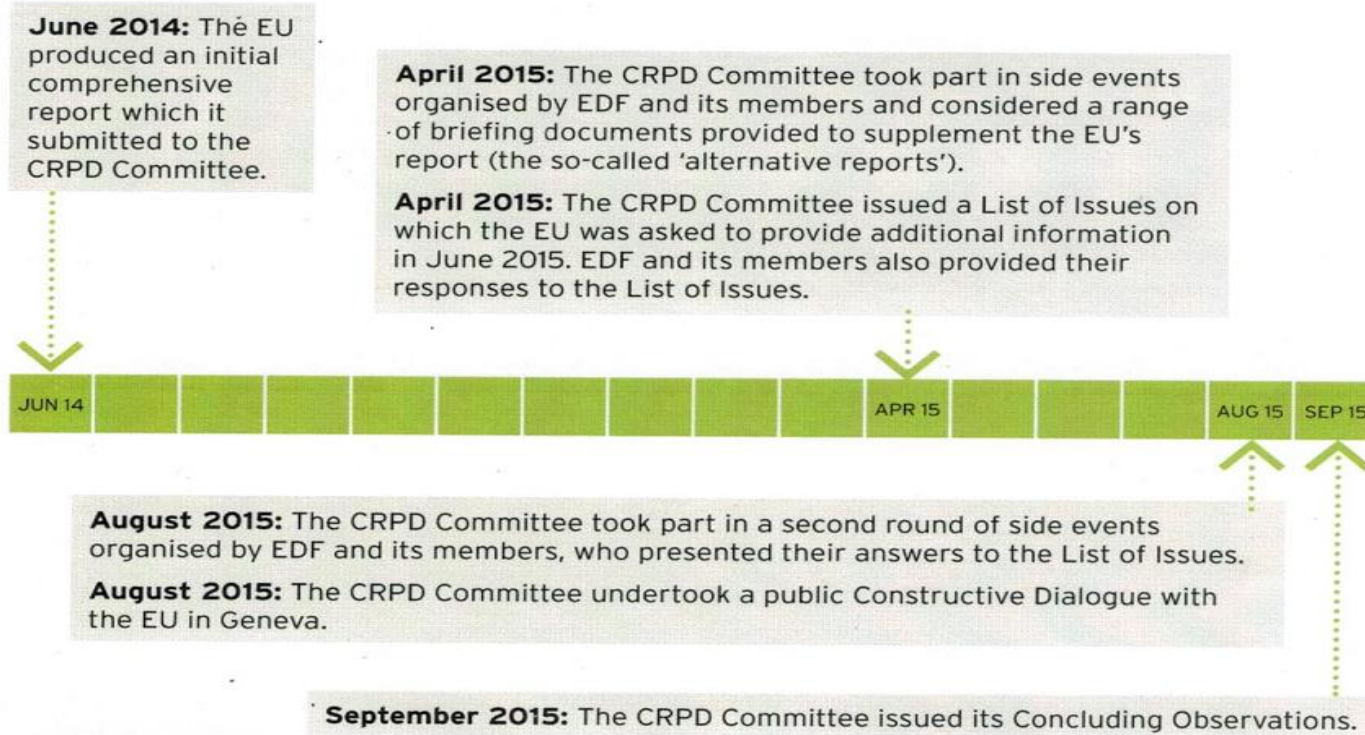
The United Nations Committee on the Rights of Persons with Disabilities (CRPD Committee) (3)

The reports of States Parties, List of Issues, Concluding Observations and the alternative reports of DPOs, along with the schedule of their review by the CRPD Committee, are available online at: **www.ohchr.org**>**Human rights bodies>All Human Rights Bodies>Committee on the Rights of Persons with Disabilities >Sessions**

http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/SessionsList.aspx?Treaty=CRPD

The European Union review by the CRPD Committee

The review process took place as follows:



Concluding Observations:

http://tbinternet.ohchr.org/_layouts/treatybodyexternal/SessionDetails1.aspx?SessionID=995&Lang=en



Recommendations to the EU

- The UNCRPD Committee submitted its recommendations (Concluding Observations) to the European Union in September 2015.
- They give clear guidance to the EU on how to better promote, protect and ensure the rights of persons with disabilities.
- The Concluding Observations call on the EU to involve representative organisations of persons with disabilities in all its decision-making, and to review its current implementation and monitoring framework to ensure independence and compliance with the Convention.
- All existing and new legislation and policy need to be in line with the Convention.
- The EU should promote and protect the rights of persons with disabilities in areas such as: freedom of movement, non-discrimination, independent living, education, access to goods and services, including banking and employment, humanitarian aid and international cooperation, legal capacity, access to justice, liberty and security, health, participation in elections, etc.



Follow-up to the Concluding Observations by the UNCRPD Committee to the EU

November 2015

EDF Initial Response to the Concluding Observations and Recommendations of the UNCRPD Expert Committee to the EU

13 May 2016

Opinion of the **European Union Agency for Fundamental Rights** concerning requirements under Article 33 (2) of the UN Convention on the Rights of Persons with Disabilities within the EU context

9 June 2016

European Parliament Report and Resolution 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))

19 October 2016

European Economic and Social Committee (EESC) Own-initiative opinion:
Concluding observations of the UN CRPD Committee – A new strategy for persons with disabilities in the European Union

Response of the **European Commission**:

- Report on the concluding observations of the UN Committee on the Rights of Persons with Disabilities on the initial report of the European Union
- SWD(2017) 29 final, Commission Staff Working Document, Progress Report on the implementation of the European Disability Strategy (2010 -2020) (2 February 2017)

UNCRPD General comments

<http://www.ohchr.org/EN/HRBodies/CRPD/Pages/GC.aspx>

- **General Comment No 1**

[Article 12: Equal recognition before the law](#) (Adopted 11 April 2014)

- **General Comment No 2**

[Article 9: Accessibility](#) (Adopted 11 April 2014)

[Submissions for the draft General Comment on Article 12 and 9](#)

- **General Comment No 3**

[Article 6: Women and girls with disabilities](#) (Adopted 26 August 2016)

[Submissions on Draft General Comment on Article 6: Women and girls with disabilities](#)

- **General Comment No 4**

[Article 24: Right to inclusive education](#) (Adopted 26 August 2016)

[Submissions for the draft General Comment on Article 24](#)

- **Draft General Comment No 5**

Article 19: Right to independent living

[Submissions-Day of General Discussion on Draft General Comment on Article 19: Right to Independent living](#)

Persisting problems after UNCRPD review

1. Not all European countries have ratified the UNCRPD and the Optional Protocol
2. Not all countries fully respect all the rights enshrined in the UNCRPD
3. General obligations under article 4 of the UNCRPD have not been fully implemented
 - a) Many countries do not apply the human rights approach to persons with disabilities in their laws and policies (definitions of disability and disability assessment criteria)
 - b) A comprehensive and consistent strategy to implement the UNCRPD is still missing
 - c) Persons with disabilities and their representative organisations are not sufficiently involved in all decisions concerning them. Adequate funding and support to enable them to fulfil their role under article 4 of the UNCRPD is not provided by most of the member states.



Thank you!



**DIRITTO DELL'UE E CONVENZIONE DELL'ONU SUI DIRITTI DELLE PERSONE CON
DISABILITÀ
SEMINARIO PER FUNZIONARI NAZIONALI E MEMBRI DELLE ONG
Treviri 29-30 maggio 2017**

Attuazione della UNCRPD nell'UE

di

Rodolfo Cattani

Forum Europeo della Disabilità



Questa pubblicazione è stata realizzata con il sostegno finanziario del programma dell'Unione Europea «Diritti, uguaglianza e cittadinanza» (2014-2020). I pareri espressi nella presente pubblicazione non impegnano che il loro autore e non riflettono necessariamente il punto di vista della Commissione europea.



Forum Europeo delle Disabilità (EDF)

- **Il Forum europeo della disabilità (EDF)** è un'organizzazione non governativa (ONG) che difende i diritti di 80 milioni di persone con disabilità in Europa.
- L'EDF è una piattaforma unica che raggruppa organizzazioni di persone con disabilità attraverso tutta l'Europa. È gestita da persone con disabilità e le loro famiglie: una voce forte per tutte le persone con disabilità in Europa.
- La missione dell'EDF è di garantire che le persone con disabilità abbiano accesso ai diritti umani e fondamentali attraverso la loro partecipazione attiva allo sviluppo e all'attuazione delle politiche europee che le riguardano.
- L'EDF è uno dei membri fondatori dell'[International Disability Alliance \(IDA\)](#).
- **Sito Internet:** <http://www.edf-fehp.org/>

Evoluzione della valutazione della disabilità

- Modello medico /clinico (la disabilità è causata dal deficit della persona)
- Modello funzionale (la disabilità è causata dalla limitazione della funzionalità della persona, ad esempio capacità lavorative ridotte o inesistenti);
- Modello sociale (la disabilità è causata da barriere socialmente strutturate o dalla loro mancata rimozione, escludendo le persone in base alla loro disabilità, ad esempio rifiuto dell'accomodamento ragionevole);
- Modello in base ai diritti umani (la disabilità è dovuta alla negazione di pari diritti, all'ineguale riconoscimento davanti alla legge e alla segregazione (ad esempio istituzionalizzazione forzata, negazione dell'autonomia decisionale, negazione del diritto di voto e dei diritti elettorali ecc.).

UNCRPD: principi generali (articolo 3)

- Rispetto per la dignità intrinseca, l'autonomia individuale e l'indipendenza delle persone;
- Non discriminazione;
- Piena ed effettiva partecipazione e inclusione nella società;
- rispetto per la differenza e l'accettazione delle persone con disabilità come parte della diversità umana e dell'umanità stessa;
- Parità di opportunità;
- Accessibilità;
- Parità tra uomini e donne;
- Rispetto dello sviluppo delle capacità dei minori con disabilità e rispetto del loro diritto a preservare la propria identità.

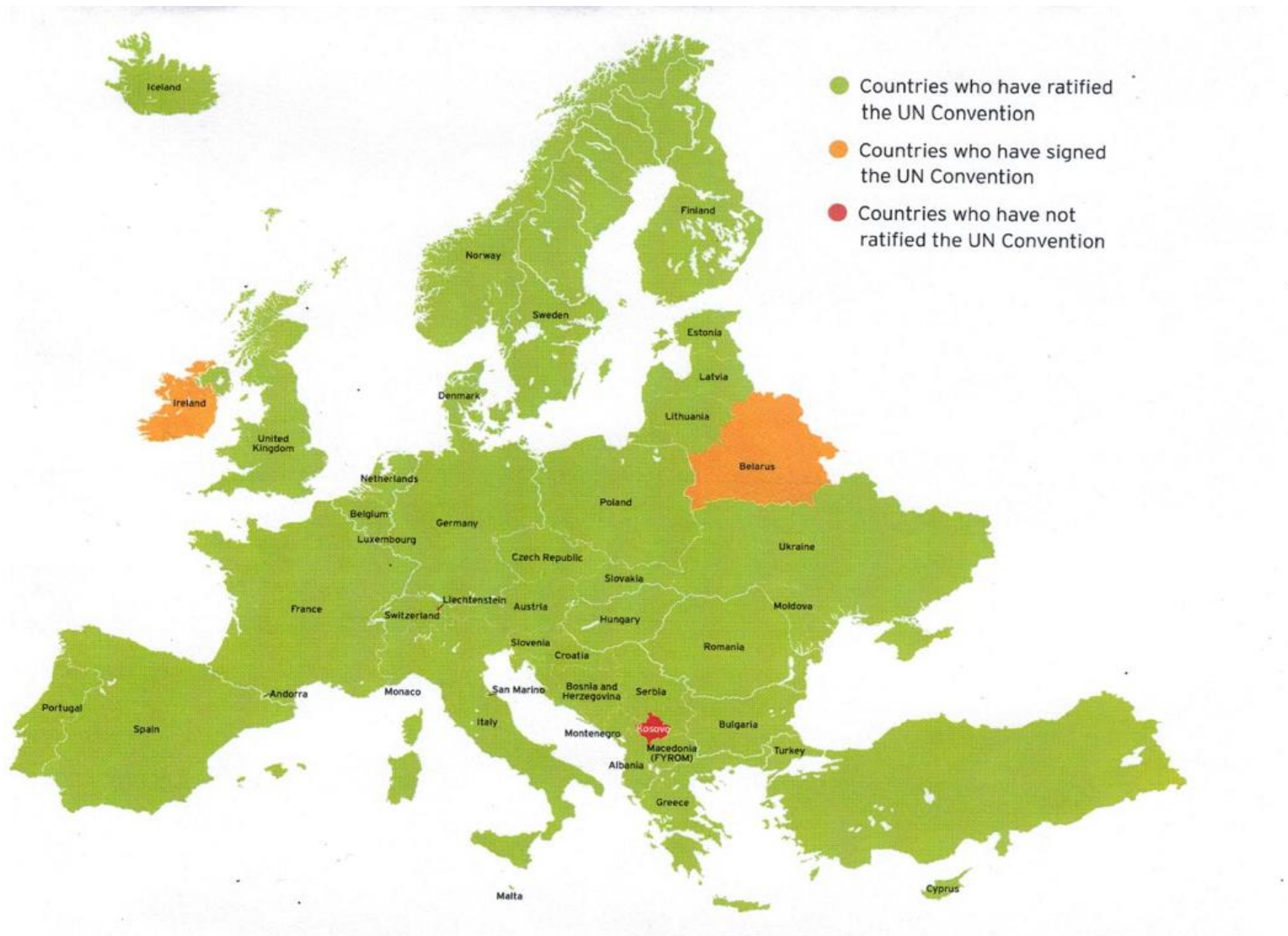
- **Obblighi generali (articolo 4.3)**

Nell'elaborazione e nell'attuazione della legislazione e delle politiche da adottare per attuare la presente Convenzione, così come negli altri processi decisionali relativi a questioni concernenti le persone con disabilità, gli Stati Parti operano in stretta consultazione e coinvolgono attivamente le persone con disabilità, compresi i minori con disabilità, attraverso le loro organizzazioni rappresentative.

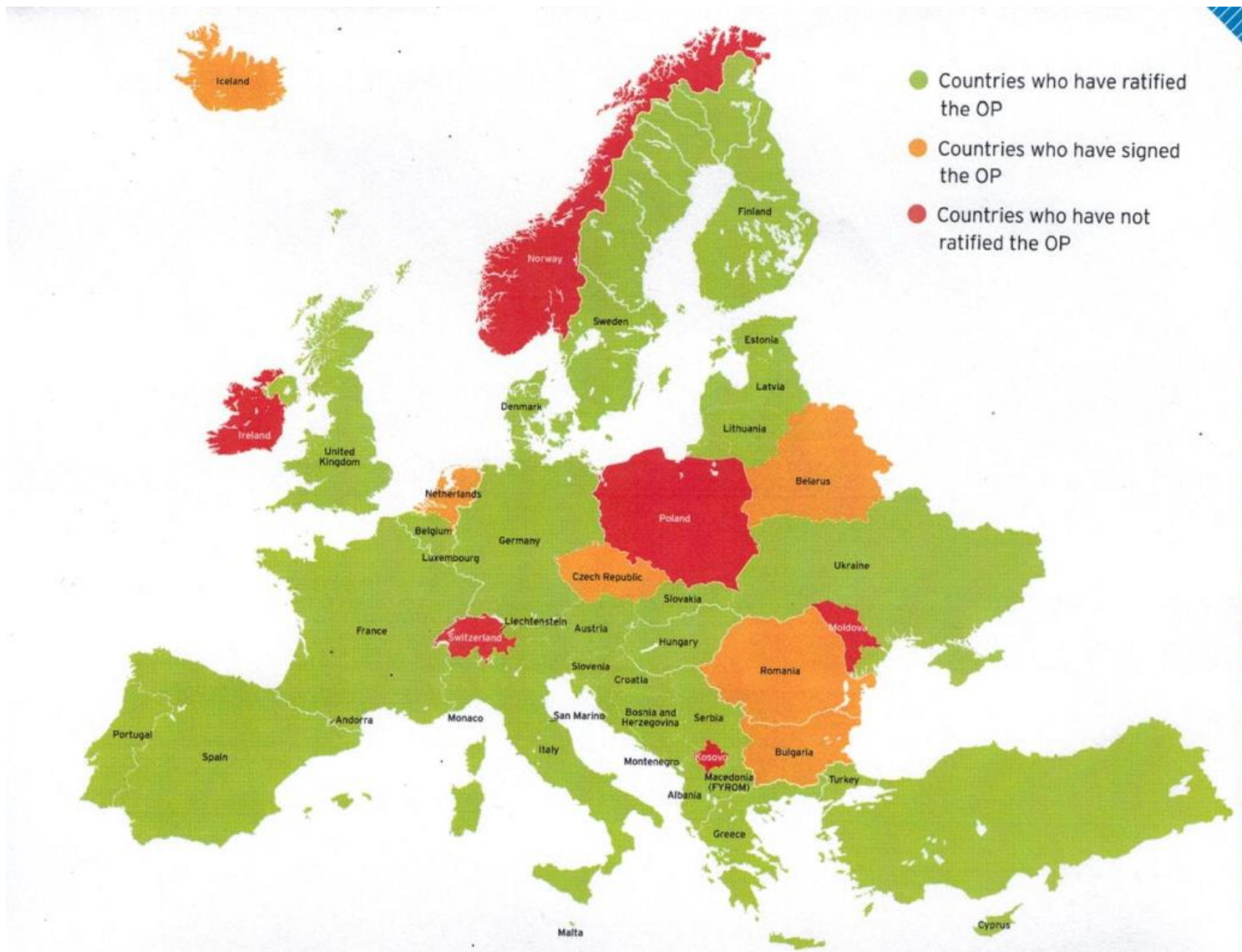
Paesi europei che hanno ratificato la CRPD e il Protocollo opzionale

- La Convenzione delle Nazioni Unite sui diritti delle persone con disabilità (CRPD) e il Protocollo opzionale sono stati adottati il 13 dicembre 2006 per consenso dell'Assemblea Generale delle Nazioni Unite (ONU).
- Il 30 marzo 2007 la CRPD e il Protocollo opzionale sono stati aperti alla firma presso la sede centrale dell'ONU a New York.
- Attualmente, 173 paesi in tutto il mondo (l'86% dei Paesi membri dell'ONU) e l'Unione europea (UE) sono Parti contraenti della CRPD.

Ratifica della Convenzione ONU



Ratifica del Protocollo opzionale



Testo completo della CRPD e del Protocollo opzionale

- <http://www.ohchr.org/EN/HRBodies/CRPD/Pages/ConventionRightsPersonsWithDisabilities.aspx>
- <http://www.ohchr.org/EN/HRBodies/CRPD/Pages/OptionalProtocolRightsPersonsWithDisabilities.aspx>

Riserve e dichiarazioni interpretative (1)

Riserva: affermazione unilaterale di uno Stato nella ratifica di un trattato internazionale. Consente allo Stato di aderire al trattato, ma escludendo gli effetti giuridici di una disposizione specifica, cui lo Stato si oppone tramite detta riserva. Una riserva costituisce una limitazione all'impegno assunto da uno Stato riguardo a taluni diritti inclusi nel trattato. Tuttavia, il diritto internazionale non consente agli Stati di formulare riserve che siano “incompatibili con l’oggetto e lo scopo del Trattato o del suo Protocollo opzionale”.

Dichiarazione interpretativa: affermazione unilaterale di uno Stato contraente riguardo alla sua comprensione su una materia inclusa nel trattato o alla sua interpretazione di una determinata disposizione presente nel trattato. Non esclude né modifica, tuttavia, l'effetto giuridico di un trattato internazionale.

Riserve e dichiarazioni interpretative (2)

L'articolo 46 CPRD stabilisce che le riserve incompatibili con l'oggetto e lo scopo della Convenzione non saranno ammesse.

Riserve e dichiarazioni interpretative alla CRPD:
www.treaties.un.org>Depositary>Status of treaties>Chapter IV-Human Rights>15. Convenzione sui diritti delle persone con disabilità

(https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mt_dsg_no=IV-15&chapter=4&lang=en)

Comitato ONU per i Diritti delle Persone con Disabilità (Comitato CRPD) (1)

- Organo composto da 18 esperti indipendenti nominati dai paesi che hanno ratificato la CRPD.
- I componenti del Comitato CRPD sono eletti per un periodo di due o quattro anni e assolvono a titolo personale le rispettive funzioni all'interno del Comitato CRPD.



Comitato ONU per i Diritti delle Persone con Disabilità (Comitato CRPD) (2)

Composizione attuale

Nome	Nazionalità	Scadenza mandato
Sig. Ahmad AL SAIF	Arabia Saudita	31.12.2020
Sig. Danlami Umaru BASHARU (Vicepresidente)	Nigeria	31.12.2018
Sig. Munthian BUNTAN	Tailandia	31.12.2020
Sig. Imed Eddine CHAKER	Tunisia	31.12.2020
Sig.ra Theresia DEGENER (Presidente)	Germania	31.12.2018
Sig. Jun ISHIKAWA	Giappone	31.12.2020
Sig. Samuel Njuguna KABUE	Kenya	31.12.2020
Sig. Hyung Shik KIM (Relatore)	Repubblica di Corea	31.12.2018
Sig. Stig LANGVAD	Danimarca	31.12.2018
Sig. Lászlo Gábor LOVASZY	Ungheria	31.12.2020
Sig. Robert George MARTIN	Nuova Zelanda	31.12.2020
Sig. Martin Babu MWESIGWA	Uganda	31.12.2020
Sig. Carlos Alberto PARRA DUSSAN	Colombia	31.12.2018
Sig. Coomaravel PYANEANDEE (Vicepresidente)	Mauritius	31.12.2018
Sig. Valery Nikitich RUKHLEDEV	Federazione russa	31.12.2020
Sig. Jonas RUSKUS	Lituania	31.12.2018
Sig. Damjan TATIC (Vicepresidente)	Serbia	31.12.2018



Comitato ONU per i Diritti delle Persone con Disabilità (Comitato CRPD) (3)

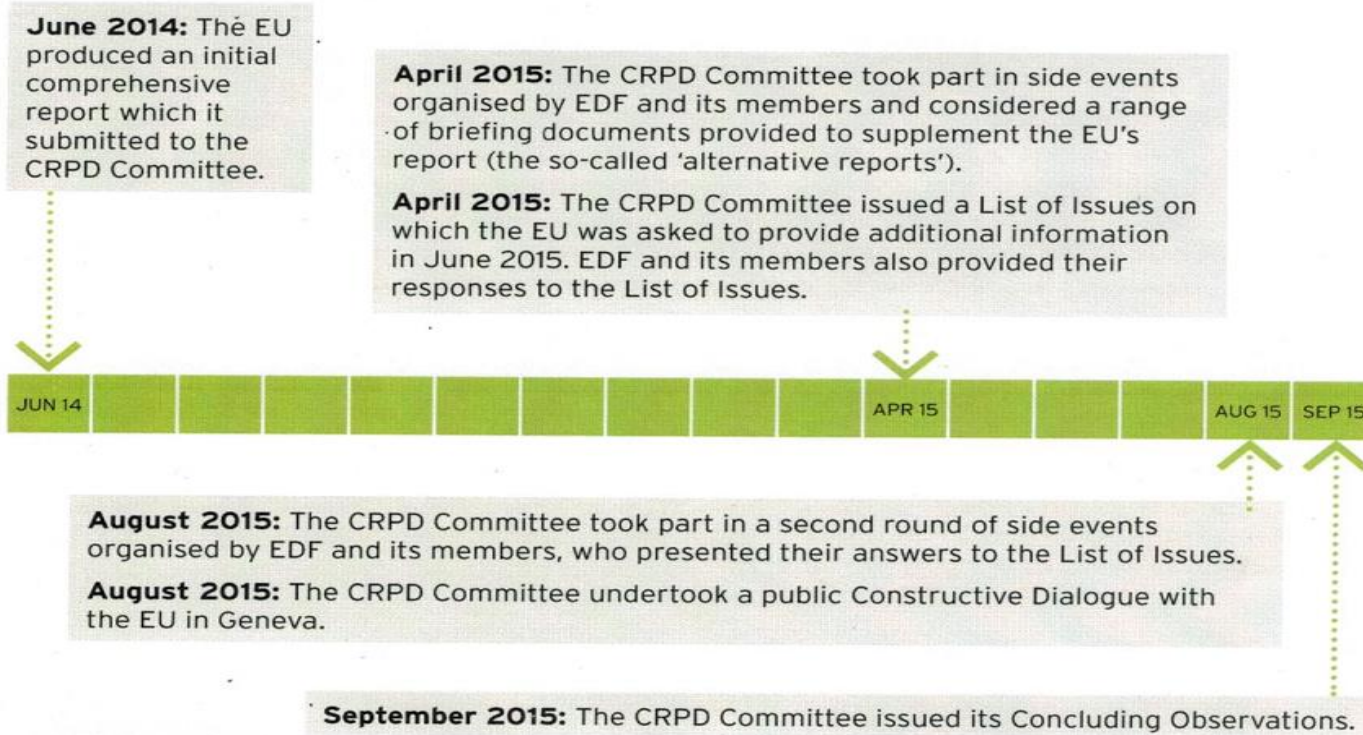
Rapporti degli Stati contraenti, elenchi delle tematiche, osservazioni conclusive, rapporti alternativi delle DPO, con la programmazione della relativa revisione da parte del Comitato CRPD, sono disponibili online all'indirizzo:

www.ohchr.org>Human rights bodies>All Human Rights Bodies>Committee on the Rights of Persons with Disabilities >Sessions

http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/SessionsList.aspx?Treaty=CRPD

Operato dell'Unione europea e revisione da parte del Comitato CRPD

The review process took place as follows:



Osservazioni conclusive:

http://tbinternet.ohchr.org/_layouts/treatybodyexternal/SessionDetails1.aspx?SessionID=995&Lang=en

Raccomandazioni all'UE

- A settembre 2015 il Comitato UNCRPD ha presentato le proprie raccomandazioni (Osservazioni conclusive) all'Unione europea.
- Tali raccomandazioni danno precise indicazioni all'UE su come promuovere, tutelare e garantire meglio i diritti delle persone con disabilità.
- Le osservazioni conclusive esortano l'UE a coinvolgere le organizzazioni che rappresentano le persone con disabilità in tutto il suo processo decisionale, nonché a rivedere l'attuale quadro di attuazione e monitoraggio, al fine di garantire indipendenza e rispetto della Convenzione.
- Tutte le normative e politiche, sia esistenti che nuove, devono essere in linea con la Convenzione.
- L'UE deve promuovere e tutelare i diritti delle persone con disabilità in settori quali: libertà di circolazione, non discriminazione, vita indipendente, istruzione, accesso a beni e servizi, tra cui anche servizi bancari e occupazione, aiuti umanitari e cooperazione internazionale, capacità giuridica, accesso alla giustizia, libertà e sicurezza, sanità, partecipazione alle elezioni, ecc.



Seguito alle osservazioni conclusive rivolte dal Comitato UNCRPD all'UE

13 maggio 2016

Parere dell'**Agenzia dell'Unione europea per i diritti fondamentali** riguardo al disposto dell'articolo 33 (2) della Convenzione ONU sui diritti delle persone con disabilità nel contesto UE

9 giugno 2016

Relazione e risoluzione del **Parlamento europeo** sull'attuazione della Convenzione ONU sui diritti delle persone con disabilità, con speciale riferimento alle osservazioni conclusive del Comitato UNCRPD (2015/2258(INI))

19 ottobre 2016

Comitato economico e sociale europeo (CESE) Parere d'iniziativa:

Osservazioni conclusive del comitato UNCRPD - Una nuova strategia per le persone con disabilità nell'Unione europea

Risposta della **Commissione europea**:

- Rapporto sulle osservazioni conclusive del Comitato ONU sui diritti delle persone con disabilità riguardo al rapporto iniziale dell'Unione europea
- SWD(2017) 29 finale, documento di lavoro dei servizi della Commissione, relazione intermedia sull'attuazione della strategia europea sulla disabilità (2010 -2020) (2 febbraio 2017)

Commenti generali UNCRPD

<http://www.ohchr.org/EN/HRBodies/CRPD/Pages/GC.aspx>

- **Commento generale n. 1**

[Articolo 12: Eguale riconoscimento di fronte alla legge](#) (adottato l'11 aprile 2014)

- **Commento generale n. 2**

[Articolo 9: Accessibilità](#) (adottato l'11 aprile 2014)

[Proposte per la bozza di commento generale sugli articoli 12 e 9](#)

- **Commento generale n. 3**

[Articolo 6: Donne e ragazze con disabilità](#) (adottato il 26 agosto 2016)

[Proposte per la bozza di commento generale sull'articolo 6: Donne e ragazze con disabilità](#) (adottato il 26 agosto 2016)

- **Commento generale n. 4**

[Articolo 24: Diritto a un'educazione inclusiva](#) (adottato il 26 agosto 2016)

[Proposte per la bozza di commento generale sull'articolo 24](#)

- **Bozza di commento generale n. 5**

Articolo 19: Diritto a una vita indipendente

[Proposte per la bozza di commento generale sull'articolo 19: Diritto a una vita indipendente](#)

Problemi persistenti dopo la revisione della UNCRPD

1. Non tutti i paesi europei hanno ratificato la UNCRPD e il Protocollo opzionale
2. Non tutti i paesi rispettano pienamente tutti i diritti sanciti nella UNCRPD
3. Gli obblighi generali di cui all'articolo 4 della UNCRPD non sono ancora stati pienamente attuati
 - a) Molti paesi non applicano l'approccio incentrato sui diritti umani alle persone con disabilità nelle rispettive politiche e normative (definizioni di disabilità e criteri di valutazione della disabilità)
 - b) Manca ancora una strategia generale e coerente per attuare la UNCRPD
 - c) Le persone con disabilità e le organizzazioni che le rappresentano non sono sufficientemente coinvolte in tutte le decisioni che le riguardano. Forme adeguate di finanziamento e supporto che consentano loro di svolgere le loro funzioni ai sensi dell'articolo 4 della UNCRPD non sono fornite dalla maggior parte degli Stati membri.



Grazie!



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European and National Disability Policies: Challenges and Best Practices

Dr. Delia Ferri

Maynooth University Department of Law

"EU DISABILITY LAW AND THE UN CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES" SEMINAR FOR NATIONAL CIVIL SERVANTS AND NGO STAFF

ERA - Trier 29-30 May 2017



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Introductory Remarks

Disability Policies

Rapid **emergence** and **diffusion** of **disability rights** in Europe in the last few years (Vanhala, 2015)

Shift towards the 'Social Model' and to the view of **disability** as a **Human Rights issue** (Kelemen&Vanhala, 2010 – Degner&Begg, 2017)

DPOs as facilitators and **UNCRPD** as a **catalyst** for the emergence of disability rights and policies

UNCRPD as a **benchmark** against which to measure the appropriateness of disability policies

Disability Policies

- ❖ The term “disability policies” covers a broad and cross-cutting range of measures and protections to **ensure equality** for people with disabilities and **respect** for their rights



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European?

The
European
Union

Council of
Europe

New 'Strategy on the
Rights of Persons with
Disabilities 2017-2023'
on 30 November 2016



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EU Disability Policy in a Nutshell

The Emergence of an EU Disability Policy and the 'European Disability Strategy 2010-2020'

The original involvement of the former European Community in the area of disability was limited. This is due to the fact that none of the 'pre-Amsterdam' Treaties contained a reference to disability.

The EC initiatives targeted to disabled people took the form of **action programmes intended to exchange information**, or were **soft law documents**.

1996 European Community Disability Strategy

Inspired by the 1993 **UN Standard Rules**

Endorsed the international **move towards a rights based approach** in the disability policy field

Laid the **policy foundations for future strategies and developments in the area of disability**



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The Legal Breakthrough

The Treaty of Amsterdam introduced **Art. 13 EC** (now **Art. 19 TFEU**) which enabled the Council to take appropriate action to **combat discrimination** based on sex, racial or ethnic origin, religion or belief, **disability**, age or sexual orientation.



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Council Directive 2000/78/EC

Council Directive 2000/78/EC

implements the principle of equal treatment in the field of employment

prohibits discrimination on various ground, including disability

Duty to provide RA

Positive Actions

EU Charter of Fundamental Rights

Art. 26

Art. 21

Article 26 of the Charter states that '[t]he Union recognises and respects the **right of persons with disabilities** to benefit from measures designed to ensure their **independence, social and occupational integration and participation in the life of the community**'

Since 2000...

- ❖ ...the EU has been relatively successful in **mainstreaming** disability into its general legislation (e.g. in the area of transport)
- ❖ ...the EU signed and **concluded the UNCRPD**
- ❖ ...the EU has adopted **disability action plans**



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*“The Committee notes with appreciation that the European Union is the first regional organization to ratify a human rights treaty concluded under the auspices of the United Nations, thus setting a positive precedent in public international law”
(CRPD Committee COs Para 1)*



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The UNCRPD in the EU Legal Order

The UNCRPD forms integral part of EU law, and in hierarchical terms, it is

- inferior to the provisions of the Treaties
- but superior to secondary EU law



Secondary EU law must be interpreted in a manner consistent with the UNCRPD

The CJEU and Consistent Interpretation

Ring and Werge 'arguably marks a paradigm shift in the Court's case-law. In that case, the **EU concept of disability was explicitly aligned with that of the UN Convention**'

Case C-312/11, *Commission v. Italy*

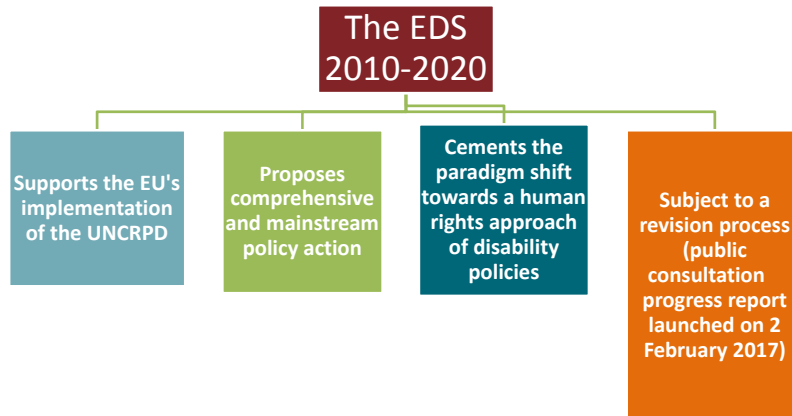
Case C-363/12, *Z. v A Government Department*

Case C-354/13, *Kaltoft*

Case C-395/15, *Daouidi v Bootes*

Case C-406/15, *Milkova*

The European Disability Strategy 2010-2020



The European Disability Strategy 2010-2020

The Strategy identifies eight main areas of action:

- ❖ Accessibility
- ❖ Participation
- ❖ Equality
- ❖ Employment
- ❖ Education and Training
- ❖ Social Protection
- ❖ Health
- ❖ External Action

The European Disability Strategy 2010-2020

“The objectives of the 10-year Strategy remain fully relevant and the European Commission is committed to continue its action using the competences and instruments at its disposal to raise awareness at EU-level”



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Accessibility in the European Disability Strategy 2010-2020

- ❖ The aim of the Strategy is to ensure accessibility to goods and services for people with disabilities, including public services and assistive devices, through:
 - ❖ **Standardization**
 - ❖ **Accessibility Legislation**
 - ❖ **Public Procurement**



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Mid-Term Achievements

- ❖ Adoption of the first European **ICT accessibility standard**
- ❖ **Directive** on the **accessibility of the websites** and mobile applications of public sector bodies
- ❖ Proposal for a European Accessibility Act
- ❖ New obligations in the **European Public Procurement Directives** for public authorities to require accessibility in the technical specifications of tenders and to explicitly allow using accessibility as one of the award criteria



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The European Disability Strategy 2010-2020

Full participation

Enjoyment of fundamental rights (right to free movement, to choose where and how to live, and to have full access to cultural, recreational, and sports activities)



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Pilot Project

- ❖ The EU is developing a **system of mutual recognition** based on an **EU Disability Card**.
- ❖ The **EU Disability Card** aims to ensure an **equal access** to certain specific benefits, mainly in the areas of culture, leisure, sport and transport
- ❖ A pilot has been launched in **February 2016**, and will kick-start the Card in a **first group of eight EU countries** (Belgium, Cyprus, Estonia, Finland, Italy, Malta, Slovenia, Romania)



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Best Practices

“The Committee notes the positive trend to include the rights of persons with disabilities in the financing of its external actions, the inclusion of disability in priority areas of the European Union communication on the post-2015 Sustainable Development Goals, the adoption by the Council of the European Union of conclusions regarding the inclusion of persons with disabilities in disaster management...” (CRPD Committee COs Para1)



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The European Disability Strategy 2010-2020

- ❖ The Strategy aims
 - ❖ to enable more people with disabilities to earn their living on the open labour market
 - ❖ to promote decent living conditions for people with disabilities

Europe
2020



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Challenges

"...in the first years of the "Europe 2020" strategy, the activity of people with disabilities in the EU did not significantly improve and continued to be definitely worse than the situation of people without disabilities" (Kopycińska, 2015)

"...the rate of **unemployment** of people with disabilities (18.3 %) is almost twice that of the general population (9.9 %)" (EP Study, 2015)

"...access to the labour market remains one of the main challenges for people with disabilities today..." (Progress Report, 2 February 2017)

"... 30% of people with a disability are at **risk of poverty or social exclusion** in the EU" (Progress Report, 2 February 2017)



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European Pillar of Social Rights

- ❖ The discussion on the **social dimension** of Europe is part of the broader debate initiated on the future of the EU27
- ❖ There are 3 main area identified in the pillar:
 - ❖ Equal opportunities and access to labour market
 - ❖ Fair working conditions
 - ❖ Social protection and inclusion



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European Pillar of Social Rights

Work-
life
balance

- Parents and people with caring responsibilities have the right to suitable leave, flexible working arrangements and access to care services.



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European Pillar of Social Rights

Inclusion of people with disabilities

- People with disabilities have the right to income support that ensures living in dignity, services that enable them to participate in the labour market and in society, and a work environment adapted to their needs.



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National Disability Policies

Trends and Common Challenges

Disability Action Plans

Almost all EU countries adopted Disability Action Plans to implement the UNCRPD (data from Disability Online Tool of the Commission - DOTCOM)

Austria (2012)

Czech Republic (2014)

Denmark (2013)

Malta (2014)

Italy (2013/ 2016)

UK (2011)



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Disability Action Plans

Some national disability action plans are explicitly modelled on/ inspired by the EDS

- ❖ E.g. *“National Action Plan on Disability 2012 – 2020: Strategy of the Austrian Federal Government for the implementation of the Disability Rights Convention. Inclusion as a human right and a mandate”*



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Other Strategies

A number of EU countries, alongside more generic disability strategies, have adopted **specific accessibility or universal design strategies** (E.g France, Norway) (Lawson, 2014)



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Procedural Best Practices

Some disability action plans have been adopted in a participatory way, including people with disabilities

- E.g. the Italian Biannual Action Plans



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Disability Action Plans

Disability action plans show a common theoretical convergence towards the principles of the UN Convention, but **appear to vary considerably** in their **level of detail**, their incorporation of **timescales** and **targets**, their monitoring mechanisms and evaluation criteria, and their provision of funding and incentives for action



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Challenges

Lack of
Detail/
Limited
Scope

- E.g. *"The Committee is concerned that the [Danish] National Disability Action Plan of 2013 does not cover broadly all of the rights and substantive areas under the Convention, and that it remains relatively general..."* (CRPD Committee COs on Danish Report 2014 Para 8)



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Challenges

**Differentiation/
Uneven
Application in
the
Territory/Lack
of Sub-
national
Action Plans**

- *“The Committee is concerned that the application of the State party’s obligations under the Convention in all parts of its territory has led to the **uneven development of disability action plans** at the Land level, namely in their content, in their orientation and in the consistent adoption of a human rights-based approach...”*
(CRPD Committee COs on German Report 2015 Para 5)

Challenges

Inadequate resourcing

Low political prioritisation

Austerity measures

Austerity

“The State party [i.e. the UK] has implemented a policy aimed at reforming its welfare system and the reforms have been justified in the context of austerity measures to achieve fiscal and budgetary policy consolidation....

Several measures have disproportionately and adversely affected the rights of persons with disabilities” (CRPD Committee Inquiry concerning the United Kingdom of Great Britain and Northern Ireland carried out by the Committee under article 6 of the Optional Protocol to the Convention, 6 October 2016)



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Concluding Remarks

European Policies

The impact of implementing the Strategy for the period 2010-2015 on the life of people with disabilities has been limited

Enduring
commitment

Long-Term
Goals



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Brexit



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National Policies

Different sociocultural, political and economic contexts impact on the implementation of the UNCRPD



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Thank you for your attention!



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Le politiche nazionali ed europee in materia di disabilità: sfide e migliori pratiche

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Università di Maynooth - Dipartimento di Giurisprudenza

"DIRITTO DELL'UE E CONVENZIONE DELL'ONU SUI DIRITTI DELLE PERSONE CON DISABILITÀ" SEMINARIO PER FUNZIONARI NAZIONALI E MEMBRI DELLE ONG

ERA - Treviri 29-30 maggio 2017

Osservazioni introduttive

La politica UE in materia di disabilità Quadro sintetico

Sfide e tendenze comuni nelle politiche nazionali in materia di disabilità

Osservazioni conclusive



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Osservazioni introduttive

Politiche in materia di disabilità

Rapido **sviluppo** e **diffusione** dei **diritti delle persone con disabilità** in Europa negli ultimi anni (Vanhala, 2015)

Conversione al "modello sociale" e al considerare la **disabilità** come una **questione di diritti umani** (Kelemen&Vanhala, 2010 – Degner&Begg, 2017)

DPO (organizzazioni di persone con disabilità) come facilitatori e **UNCRPD** come **catalizzatore** per lo sviluppo di politiche e diritti in materia di disabilità

UNCRPD come **valore comparativo** su cui misurare l'adeguatezza delle politiche in materia di disabilità

Politiche in materia di disabilità

- ❖ L'espressione "politiche in materia di disabilità" copre un'ampia gamma di misure trasversali e di tutela al fine di **garantire l'eguaglianza** alle persone con disabilità e il **rispetto** dei loro diritti



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A livello europeo?

Unione
europea

Consiglio
d'Europa

Nuova "Strategia
europea sulla
disabilità" 2017-2023
del 30 novembre 2016



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La politica UE in materia di disabilità - Quadro sintetico

Lo sviluppo di una politica UE sulla disabilità e la "Strategia europea sulla disabilità 2010-2020"

Il coinvolgimento originale dell'ex Comunità europea nel campo della disabilità era limitato. Questo perché nessuno dei trattati "pre-Amsterdam" conteneva un riferimento alla disabilità.

Le iniziative CE mirate alle persone disabili assumevano la forma di **programmi d'azione destinati a scambiare informazioni**, oppure di semplici documenti **privi di efficacia vincolante**.

Strategia sulla disabilità 1996 della Comunità europea

Ispirata alle **norme standard delle Nazioni Unite** 1993

Ha approvato il **passaggio internazionale verso un
approccio basato sui diritti** nelle politiche sulla disabilità

Ha gettato **le basi politiche per strategie e sviluppi
successivi nel campo della disabilità**



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La rivoluzione giuridica

Il Trattato di Amsterdam ha introdotto l'**art. 13 CE** (oggi **art. 19 TFUE**) che consente al Consiglio di adottare azioni appropriate per **combattere le discriminazioni** fondate sul sesso, la razza o l'origine etnica, la religione o le convinzioni personali, la **disabilità**, l'età o l'orientamento sessuale.



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Direttiva 2000/78/UE del Consiglio

Direttiva 2000/78/UE del Consiglio

Attua il principio della parità di trattamento nel campo dell'occupazione

Vieta la discriminazione fondata su vari motivi, fra cui la disabilità

Dovere di fornire un accomodamento ragionevole (RA)

Azioni positive

Carta dei diritti fondamentali dell'UE

Art. 26

Art. 21

L'articolo 26 della Carta stabilisce che "l'Unione riconosce e rispetta il **diritto delle persone con disabilità** di beneficiare di misure intese a garantirne **l'autonomia, l'inserimento sociale e professionale e la partecipazione alla vita della comunità**"

Dal 2000...

- ❖ ...l'UE è relativamente riuscita a **integrare** la disabilità nella sua legislazione generale (per es. nel campo dei trasporti)
- ❖ ...l'UE ha firmato e **concluso la UNCRPD**
- ❖ ...l'UE ha adottato **piani d'azione sulla disabilità**



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“Il Comitato apprezza che l'Unione europea è la prima organizzazione regionale per ratificare un trattato sui diritti umani sotto gli auspici delle Nazioni Unite, creando così un precedente positivo nel diritto pubblico internazionale” (parag. 1, osservazioni conclusive, Comitato CRPD)



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La UNCRPD nell'ordinamento giuridico UE

La UNCRPD è parte integrante del diritto UE; in termini gerarchici, è

- inferiore alle disposizioni dei Trattati
- ma superiore al diritto secondario dell'UE



Il diritto secondario dell'UE deve essere interpretato in modo coerente con la UNCRPD

La CGUE e l'interpretazione coerente

La sentenza *Ring e Werge* "segna forse un cambio paradigmatico nella giurisprudenza della Corte. In questa causa, il **concetto UE di disabilità è stato espressamente allineato con quello della Convenzione ONU**"

Causa C-312/11, *Commissione europea contro Repubblica italiana*

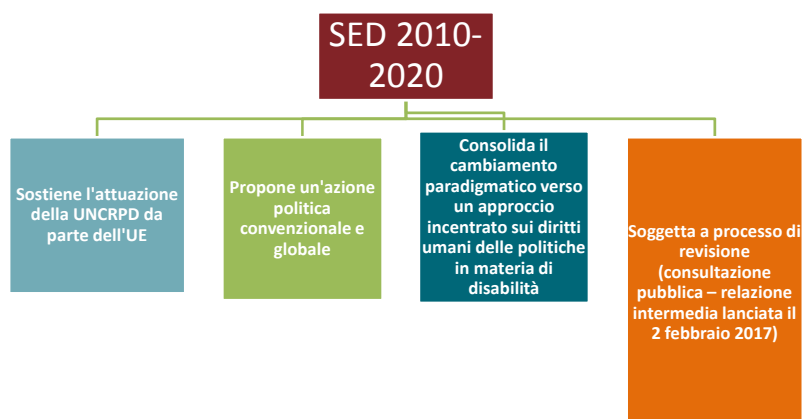
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Causa C-354/13, *Kaltoft*

Causa C-395/15, *Daouidi contro Bootes*

Causa C-406/15, *Milkova*

Strategia europea sulla disabilità 2010-2020



Strategia europea sulla disabilità 2010-2020

La strategia individua otto aree principali di azione

- ❖ Accessibilità
- ❖ Partecipazione
- ❖ Uguaglianza
- ❖ Occupazione
- ❖ Istruzione e formazione
- ❖ Protezione sociale
- ❖ Salute
- ❖ Azione esterna

Strategia europea sulla disabilità 2010-2020

“Gli obiettivi della strategia decennale restano assolutamente pertinenti e la Commissione europea si impegna a continuare la propria azione sfruttando le competenze e gli strumenti a propria disposizione per sensibilizzare l'opinione pubblica a livello UE”



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L'accessibilità nella strategia europea sulla disabilità 2010-2020

❖ L'obiettivo della strategia è assicurare l'accessibilità delle persone con disabilità a beni e servizi, compresi i servizi pubblici e i dispositivi di assistenza, attraverso:

- ❖ **Standardizzazione**
- ❖ **Legislazione sull'accessibilità**
- ❖ **Appalti pubblici**



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Risultati intermedi

- ❖ Adozione della prima **norma TIC europea in materia di accessibilità**
- ❖ **Direttiva sull'accessibilità di siti web** e applicazioni mobili degli organismi del settore pubblico
- ❖ Proposta per una legge europea sull'accessibilità
- ❖ Nuovi obblighi nelle **direttive europee sugli appalti pubblici** per le autorità pubbliche, chiamate a esigere l'accessibilità nelle specifiche tecniche dei bandi di gara e a consentire espressamente l'utilizzo dell'accessibilità come uno dei criteri di aggiudicazione



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Strategia europea sulla disabilità 2010-2020

Piena partecipazione

Godimento dei diritti fondamentali (diritto di libera circolazione, di scegliere dove e come vivere e di avere totale accesso alle attività culturali, ricreative e sportive)



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Progetto pilota

- ❖ L'UE sta sviluppando un **sistema di mutuo riconoscimento** basata sulla **carta UE della disabilità**.
- ❖ La **carta UE della disabilità** punta a garantire **parità di accesso** a determinati vantaggi specifici, precipuamente nei settori riguardanti cultura, tempo libero, sport e trasporti
- ❖ A **febbraio 2016** è stato lanciato un progetto pilota che introdurrà l'utilizzo della carta in un **primo gruppo di otto Paesi UE** (Belgio, Cipro, Estonia, Finlandia, Italia, Malta, Slovenia, Romania)



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Migliori pratiche

“Il Comitato rileva la tendenza positiva per includere i diritti delle persone con disabilità nel finanziamento delle sue azioni esterne, l'inclusione della disabilità nelle priorità delle comunicazioni dell'Unione europea sugli Obiettivi di sviluppo sostenibile post-2015, l'adozione da parte del Consiglio dell'Unione europea delle conclusioni riguardo l'inclusione delle persone con disabilità nella gestione delle catastrofi...” (parag. 1, osservazioni conclusive, Comitato CRPD)



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Strategia europea sulla disabilità 2010-2020

- ❖ La strategia punta a
 - ❖ permettere a un maggior numero di persone con disabilità di guadagnarsi da vivere nel mercato aperto del lavoro
 - ❖ promuovere condizioni di vita dignitose per le persone con disabilità

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Sfide

“...nei primi anni della strategia “Europa 2020”, l'attività di persone con disabilità nell'UE non è migliorata sostanzialmente, continuando a essere decisamente peggiore della situazione delle persone senza disabilità” (Kopycińska, 2015)

“...il tasso di **disoccupazione** delle persone con disabilità (18,3%) è quasi doppio rispetto a quello della popolazione generale (9,9%)” (studio PE, 2015)

“...l'accesso al mercato del lavoro resta una delle sfide principali, oggi, per le persone con disabilità...” (relazione intermedia, 2 febbraio 2017)

“... il 30% delle persone con una disabilità sono a **rischio di povertà o di esclusione sociale** nell'UE” (relazione intermedia, 2 febbraio 2017)



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Pilastro europeo dei diritti sociali

- ❖ La discussione sulla **dimensione sociale** dell'Europa fa parte del più ampio dibattito avviato sul futuro dell'UE27
- ❖ Il pilastro individua 3 aree principali
 - ❖ Pari opportunità e accesso al mercato del lavoro
 - ❖ Condizioni di lavoro eque
 - ❖ Inclusione e protezione sociale

Pilastro europeo dei diritti sociali

Equilibrio fra
vita
professionale
e vita privata

- Genitori e persone con responsabilità di assistenza e cura hanno il diritto di fruire di appositi congedi, di condizioni più flessibili nel lavoro e dell'accesso a servizi di assistenza.

Pilastro europeo dei diritti sociali

Inclusione delle persone con disabilità

- Le persone con disabilità hanno il diritto di ottenere: un sostegno economico che garantisca loro di vivere in modo dignitoso; servizi che consentano loro di integrarsi nel mercato del lavoro e nella società; e un ambiente di lavoro adattato alle loro esigenze.



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Politiche nazionali in materia di disabilità

Tendenze e sfide comuni

Piani d'azione sulla disabilità

Quasi tutti i Paesi UE hanno adottato piani d'azione sulla disabilità per attuare la UNCRPD (dati dello strumento online della Commissione in materia di disabilità - DOTCOM)

Austria (2012)

Repubblica ceca (2014)

Danimarca (2013)

Malta (2014)

Italia (2013/2016)

Regno Unito (2011)



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Piani d'azione sulla disabilità

Alcuni piani nazionali sulla disabilità sono espressamente modellati sulla/ispirati alla SED

❖ Per es. *“Piano d'azione nazionale sulla disabilità 2012 – 2020: Strategia del governo federale austriaco per l'attuazione della Convenzione sui diritti dei disabili. Inclusione come diritto umano e come missione da assolvere”*



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Altre strategie

Numerosi Paesi UE, oltre a strategie più generiche in materia di disabilità, hanno adottato **strategie specifiche di accessibilità o progettazione universale** (per es. Francia, Norvegia) (Lawson, 2014)



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Migliori pratiche procedurali

Alcuni piani d'azione in materia di disabilità sono stati adottati in modo partecipativo, includendo persone con disabilità

- Per es. piani d'azione biennali in Italia



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Piani d'azione sulla disabilità

I piani d'azione sulla disabilità mostrano una convergenza teorica comune verso i principi della Convenzione, ma **sembrano variare notevolmente** in termini di **livello di dettaglio**, relativa integrazione delle **tempistiche** e degli **obiettivi**, meccanismi di monitoraggio e criteri di valutazione, erogazione di finanziamenti e incentivi all'azione



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Sfide

Mancanza di dettaglio/portata limitata

- Es. *“Il Comitato è preoccupato per il fatto che il Piano d'azione nazionale [danese] sulla disabilità 2013 non contempla in modo ampio tutti i diritti e le tematiche sostanziali che rientrano nella Convenzione, e per il fatto che il Piano rimane relativamente generale...”* (Comitato CRPD, osservazioni conclusive sul rapporto danese 2014, parag. 8)



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Sfide

**Differenziazion
e/applicazione
non uniforme
nel
territorio/man
canza di piani
d'azione
subnazionali**

- *“Il Comitato è preoccupato per il fatto che l'applicazione degli obblighi derivanti dalla Convenzione per lo Stato contraente in tutte le parti del suo territorio ha portato a uno **sviluppo non uniforme di piani d'azione sulla disabilità** a livello di Land, segnatamente in termini di contenuti, orientamento e adozione coerente di un approccio basato sui diritti umani...” (Comitato CRPD, osservazioni conclusive sul rapporto tedesco 2015, parag. 5)*

Sfide

Finanziamenti inadeguati

Scarsa priorità politica

Misure di austerità

Austerità

“Lo Stato contraente [il Regno Unito] ha attuato una politica destinata a riformare il suo sistema di sicurezza sociale; le riforme sono state giustificate dalle misure di austerità finalizzate a realizzare un consolidamento a livello di politica fiscale e di bilancio

*Numerose misure hanno influenzato negativamente e in modo sproporzionato i diritti delle persone con **disabilità**” (Comitato CRPD Inchiesta riguardante il Regno Unito di Gran Bretagna e Irlanda del Nord condotta dal Comitato ai sensi dell'articolo 6 del Protocollo opzionale alla Convenzione, 6 ottobre 2016)*



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Osservazioni conclusive

Politiche europee

L'impatto dell'attuazione della Strategia per il periodo 2010-2015 sulla vita delle persone con disabilità è stato limitato

Impegno duraturo

Obiettivi di lungo termine



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Brexit



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Politiche nazionali

Contesti diversi sul piano socioculturale, politico ed economico incidono sull'attuazione della UNCRPD



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Grazie per l'attenzione!



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National Implementation and Monitoring: Art. 33 of the UNCRPD

Dr. Delia Ferri

Maynooth University Department of Law

*"EU DISABILITY LAW AND THE UN CONVENTION ON THE RIGHTS OF PERSONS WITH
DISABILITIES"* SEMINAR FOR NATIONAL CIVIL SERVANTS AND NGO STAFF

ERA - Trier 29-30 May 2017

National Implementation and Monitoring: Art. 33 of the UNCRPD

Main Features of Art. 33 UNCRPD



Comparative Perspectives and Practical Approaches



Challenges and Perspectives



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Main Features of Art. 33 UNCRPD

The Focal Point, the Coordination Mechanism
and the Framework

Art. 33 UNCRPD

“Article 33 CRPD is arguably the **most complete** provision on national level implementation and monitoring ever in an international human rights treaty and represents one of the **most innovative** provisions of the Convention” (G. De Beco OHCHR Study 2014)

Art. 33 UNCRPD

Art. 33(1)
UNCRPD

- ONE or MORE FOCAL POINT(S)

Art. 33(1)
UNCRPD

- A COORDINATION MECHANISM

Art. 33(2)
UNCRPD

- A FRAMEWORK

Art. 33(3)
UNCRPD

- Involve civil society in the monitoring process

FOCAL POINT

*“States Parties, in accordance with their system of organization, **shall designate** one or more focal points **within government** for matters relating to the **implementation** of the present Convention”*

FOCAL POINT

- Designation of a Focal Point is **compulsory**
- It is **not** required that they are designated by law
- Focal Point(s):
 - A. One or More
 - B. At the **governmental level** (highest appropriate level, minister or a commissioner within a given ministry)



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FOCAL POINT

The OHCHR:

- A) discourages the use of the Ministry of Health, or social affairs-related structures as this might perpetuate a medical model of disability
- B) recommends the Ministry of Justice as a suitable Focal Point



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What are the strengths and weaknesses of a **single** Focal Point?

What are the strengths and the weaknesses of a **plurality of** Focal Points?

SEVERAL FOCAL POINTS

Strengths	Weaknesses
<p>UNITARY STATES:</p> <ul style="list-style-type: none"> Implementation of the UNCRPD is shared among different administration and mainstreamed in every policy action <p>FEDERAL/REGIONAL STATES</p> <ul style="list-style-type: none"> Levels nearer to citizens impacted by public choices are fully involved (respect for subsidiarity) Focal points across and within the different governmental layers will not necessarily have the same role but can differently contribute to the implementation of the UNCRPD 	<ul style="list-style-type: none"> The proliferation of focal points may endanger the efficiency of the implementation mechanism.

FOCAL POINT

Ensure **coherent** government activity in the area of disability

Produce a **UNCRPD implementation action plan**

Establish **contact with representative organisations** of persons with disabilities and proactively involve them;

Provide **technical guidance** and promote statistic data collection

Promote specific actions to **support** the human rights approach



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What is needed for a Focal Point to function properly?



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COORDINATION MECHANISM

*“... shall **give due consideration** to the **establishment or designation** of a **coordination mechanism** within government to facilitate related action in different sectors and at different levels”*



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COORDINATION MECHANISM

- It is not a compulsory mechanism (i.e. Art. 33 provides an **option**, but **not a legal obligation**)
- If created, it should be **within government** (inter-ministerial group, tasked with coordinating implementation of the Convention across respective departments/sectors or levels of government)



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COORDINATION MECHANISM

- There is **no clear distinction** between the functions of the Focal Point and the Coordination Mechanism
- BUT**
- The national disability agenda can be negotiated within a **neutral Coordination Mechanism**
 - Coordination Mechanisms can also serve **to mainstream disability** across government and **further support implementation of the UNCRPD**

What are the benefits of a
Coordination Mechanism?

When can it be
considered necessary?

FRAMEWORK

*“States Parties shall, in accordance with their legal and administrative systems, maintain, strengthen, designate or establish within the State Party, **a framework, including one or more independent mechanisms, as appropriate, to promote, protect and monitor implementation of the present Convention. When designating or establishing such a mechanism, States Parties shall take into account the **principles relating to the status and functioning of national institutions for protection and promotion of human rights**”***



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Paris Principles

- The principles referred to in Article 33(2) are the **Paris Principles**, originally written to establish the functioning and creation of NHRIs.
- The Paris Principles:
 - have no binding nature, but constitute a parameter for the creation of NHRI
 - require for NHRI to be independent
 - provide for the criterion of pluralism (NHRI must represent diverse social forces involved in the protection and promotion of human rights)

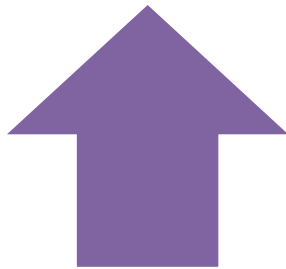


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FRAMEWORK

- A. It is a **compulsory** structure
- B. It must include “**one or more independent mechanisms**” complying with the Paris Principles
- C. A reference to the Paris Principles does not imply that existing NHRIs must be designated as independent mechanisms, BUT the CRPD Committee has held that an NHRIs fulfil the independence requirement of Article 33.2, and when one exists, the NHRI should be a part of the monitoring framework

Must all
bodies of the
framework be
independent?



The wording of the English version of Article 33(2) seems to **allow for non-independent bodies**, as long as at least one independent body is present (OHCHR, 2009)



de Beco and Hoefmans argue that it is 'against the spirit' of Article 33(2) and that all bodies within the framework must be independent

FRAMEWORK

It should perform *inter alia* these tasks:

- **Promote the implementation**, i.e. provide information, carry out awareness raising activities, educational activities, promote implementation methods and tools available to national government; inform persons with disabilities about their rights
- **Monitor the implementation**, i.e. assess the extent to which there has been implementation;
- **Carry out the task of protection**, i.e. assist in protection, without being solely responsible for it, provide a complaints mechanism, provide mediation, establish programmes of prevention, undertake 'strategic litigation' (supporting people with disabilities to file a complaint to the CRPD Committee)

Art. 33 makes a clear divide between focal points and framework...

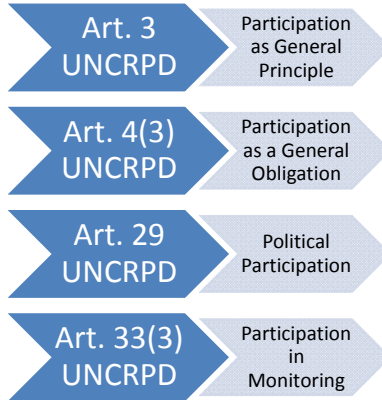


....but, the Focal points, Coordination mechanism and Framework must be **interrelated**, and they must **interact**...

Art. 33(3) UNCRPD

“Civil society, in particular persons with disabilities and their representative organizations, shall be involved and participate fully in the monitoring process”

Art. 33(3) UNCRPD



Participation

Figure 1: Policy Cycle



Art. 33(3) UNCRPD

States Parties are clearly obliged to include persons with disabilities and DPOs in the monitoring process, BUT the exact form of this participation is left unclear

States have a margin of discretion

Consultation is not sufficient

Monitoring process must be accessible to people with disabilities



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Art. 33(3) UNCRPD

What are the benefits of involving people with disabilities?



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Comparative Perspectives

Some solutions adopted across the EU

Focal Point

What solution
was adopted
in your
country?
Why?

Single Focal Point

- Austria (Federal Ministry of Labour, Social Affairs and Consumer Protection)
- Czech Republic (Ministry of Labour and Social Affairs)
- Denmark (Ministry of Social Affairs)
- Italy (Directorate General for Inclusion, Social Rights and Social Responsibility of the Ministry of Labour and Social Policies)
- Latvia (Ministry of Welfare)
- Slovenia (Directorate for Persons with Disabilities of the Ministry of Labour, Family and Social Affairs)



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Several Focal Points

Belgium

- Directorate General for Strategy and Research of the Ministry of Social Affairs + subnational focal points.

Germany

- Federal Ministry for Labour and Social Affairs + 16 Länder focal points (mostly their ministries of social affairs)

UK

- UK Office for Disability Issues (a cross-governmental body working with different ministries as a focal point) + focal points in each of the devolved administrations of Northern Ireland, Wales and Scotland.



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The EU

- The Council Decision concerning the conclusion, by the EU, of the UNCRPD designates the **European Commission** as the focal point for the implementation of the Convention at EU level
- As focal point, the Commission promotes cross-sectoral coordination between its departments, with the other EU institutions and bodies

The EU

- The EP recommended the creation of a 'focal point' for the CRPD in the European External Action Service and put in place focal points for disability issues in EU delegations, appointing trained liaison officers who can offer the benefits of their expertise and professionalism to persons with disabilities

Coordination Mechanism

Did your
country
designate a
Coordination
Mechanism?

Coordination Mechanism

**Focal point
incorporates at the
same time a
coordinating function**

E.g. Belgium, Italy,
Romania

**Interministerial
structures**

E.g. Sweden (High
Level Interministerial
Working Group)

The EU

Formal coordination with the Member States is ensured through the human rights working group (COHOM) of the Council

Framework

There is great diversity in the solutions adopted to implement Article 33 (2) CRPD by EU member States Parties to CRPD

The UNCRPD leaves the door open...

1. to the designation of a **single existing independent mechanism** as 'Framework' (e.g. NHRI, ombudsmen, equality body...)
2. to the creation of a **new** independent mechanism
3. to creation of a framework including both **existing and new entities** (i.e. a 'cocktail' of independent mechanism(s) and other entities, e.g. parliamentary committees, judiciary, other *ad hoc* bodies...)

SINGLE **EXISTING** INDEPENDENT MECHANISM

Germany

- German Institute for Human Rights (NHRI)

Belgium

- Centre for Equal Opportunities and Opposition to Racism (Equality Body)

Latvia

- Latvian Ombudsman

Spain

- Spanish Committee of Representatives of People with Disabilities (CERMI)

New Ad Hoc Body

Austria has established the Independent Monitoring Committee by Section 13 of the *Federal Disability Act* of 8 August 2008.

Participatory

Ensures Pluralism in Composition

Functionally independent but not financially/organizationally

Carry out the Task of Protection



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New Ad Hoc Body

Italy envisaged the creation of a new mixed “body” as framework: the National Observatory on the Condition of Persons with Disability

Participatory

Ensures Pluralism in Composition

Not independent

Hybrid

Does not carry out the task of Protection



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A Framework?

Denmark

- Danish Institute for Human Rights (DIHR), the Danish Disability Council and the Danish Parliamentary Ombudsman

Lithuania

- the Council for Disability Affairs and the Equal Opportunities Ombudsman.

An EU Framework?

the European Parliament

the European Ombudsman

the EU Agency for Fundamental Rights

the European Disability Forum

the **Commission**

An EU Framework?

“The [CRPD] Committee notes with concern that the European Union framework for implementation and monitoring of the Convention is not fully in line with the Paris Principles nor adequately resourced...”



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An EU Framework?

The European Commission decided to withdraw from the EU Framework following publication of the CRPD Committee's Concluding observations on the EU in September 2015. FRA was appointed, by consensus, chair and secretariat of the EU Framework on *an interim* basis in November 2015.



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Challenges and Perspectives

What are the main challenges in setting national implementation and monitoring structures?

How can coordination among various body be ensured?

How can accessibility be ensured?

How to create participatory processes?

- Who participates?
- How representative is the participant?
- How effective is the participation?

Circulation of Best Practices



Learning from Best Practices

Consider the different constitutional design of each State

Good implementation practice in a State, if transplanted, may not function properly in a different legal context.

PROBLEM QUESTION



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Thank you for your attention!



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Attuazione nazionale e monitoraggio: art. 33 UNCRPD

Dr.ssa Delia Ferri

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"DIRITTO DELL'UE E CONVENZIONE DELL'ONU SUI DIRITTI DELLE PERSONE CON DISABILITÀ" SEMINARIO PER FUNZIONARI NAZIONALI E MEMBRI DELLE ONG

ERA - Treviri 29-30 maggio 2017

Attuazione nazionale e monitoraggio: art. 33 UNCRPD

Caratteristiche principali dell'art. 33 UNCRPD



Scenari comparativi e approcci pratici



Sfide e prospettive



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Caratteristiche principali dell'art. 33 UNCRPD

Punto focale, meccanismo di coordinamento
e quadro

Art. 33 UNCRPD

“L'articolo 33 CRPD è probabilmente la disposizione **più completa** in materia di attuazione nazionale e monitoraggio mai inserita in trattato internazionale sui diritti dell'uomo. Rappresenta, inoltre, una delle disposizioni **più innovative** della Convenzione” (G. De Beco - Studio OHCHR 2014)

Art. 33 UNCRPD

Art. 33 (1)
UNCRPD

- UNO o PIÙ PUNTI FOCALI

Art. 33 (1)
UNCRPD

- UN MECCANISMO DI COORDINAMENTO

Art. 33 (2)
UNCRPD

- UN QUADRO

Art. 33 (3)
UNCRPD

- Coinvolgere la società civile nel processo di monitoraggio

PUNTO FOCALE

*“Gli Stati contraenti, in conformità al loro sistema organizzativo, **designano** uno o più punti focali **all'interno del governo** per le questioni relative all'**attuazione** della presente Convenzione”*

PUNTO FOCALE

- La nomina di un punto focale è **obbligatoria**
- **Non** deve essere necessariamente designato per legge
- Punto(i) focale(i):
 - A. Uno o più
 - B. A **livello governativo** (al livello appropriato più elevato, ministro o commissario all'interno di un determinato ministero)

PUNTO FOCALE

L'OHCHR (Alto Commissariato ONU per i diritti umani):

- A) scoraggia l'utilizzo del Ministero della Sanità, o di strutture legate agli affari sociali, in quanto ciò potrebbe perpetuare un modello medico della disabilità
- B) raccomanda il Ministero della Giustizia come punto focale appropriato

Quali sono i punti forti e deboli di un punto focale **unico**?

Quali sono i punti forti e deboli di **più** punti focali?

PIÙ PUNTI FOCALI

Punti forti

STATI UNITARI

- L'attuazione della UNCRPD è condivisa fra varie amministrazioni e **integrata** in ogni azione politica

STATI FEDERALI/REGIONALI

- Pieno coinvolgimento dei livelli più vicini ai cittadini direttamente interessati dalle scelte pubbliche (rispetto della **sussidiarietà**)
- I punti focali attraverso e all'interno dei vari livelli di governo non devono avere necessariamente lo stesso ruolo ma possono contribuire in modo diverso all'attuazione della UNCRPD

Punti deboli

- La proliferazione dei punti focali potrebbe **compromettere l'efficienza** del meccanismo di attuazione.

PUNTO FOCALE

Garantire un'azione coerente di governo in materia di disabilità

Elaborare un **piano d'azione per l'attuazione della UNCRPD**

Stabilire un **contatto con le organizzazioni che rappresentano** le persone con disabilità e coinvolgerle in maniera proattiva

Fornire **consulenza tecnica** e promuovere la raccolta statistica dei dati

Promuovere azioni specifiche per **sostenere** l'approccio incentrato sui diritti umani



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Cosa occorre a un punto focale per funzionare in modo adeguato?



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MECCANISMO DI COORDINAMENTO

*“... **tengono nel dovuto conto** la **creazione o designazione** di un **meccanismo di coordinamento** a livello governativo per facilitare le azioni legate a tale attuazione nei vari settori e a vari livelli”*



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MECCANISMO DI COORDINAMENTO

- Non si tratta di un meccanismo obbligatorio (l'art. 33 prevede l'**opzione, non l'obbligo giuridico**)
- Se costituito, il punto focale, deve essere inserito **all'interno del governo** (gruppo interministeriale, incaricato di coordinare l'attuazione della Convenzione attraverso i rispettivi dipartimenti/settori o livelli di governo)



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MECCANISMO DI COORDINAMENTO

- **Non vi è una chiara distinzione** fra le funzioni del punto focale e il meccanismo di coordinamento

MA

- L'agenda nazionale relativa alle disabilità può essere negoziata all'interno di un **meccanismo neutrale di coordinamento**
- Il meccanismo di coordinamento può anche servire per **integrare la disabilità** nelle attività di governo e, così, **sostenere ulteriormente l'attuazione della UNCRPD**



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Quali sono i vantaggi di un meccanismo di coordinamento?

Quando può essere considerato necessario?



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QUADRO

*“Gli Stati contraenti, in conformità ai loro sistemi giuridici e amministrativi, dovranno mantenere, rafforzare, designare o istituire, al loro interno, **un quadro, comprendente uno o più meccanismi indipendenti**, se del caso, per promuovere, proteggere e monitorare l'attuazione della presente convenzione. Nel designare o stabilire tale meccanismo, gli Stati contraenti dovranno tenere in considerazione **i principi relativi allo status e al funzionamento delle istituzioni nazionali per la protezione e la promozione dei diritti umani**”*



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Principi di Parigi

- I principi cui si fa riferimento nell'articolo 33 (2) sono i **Principi di Parigi**, elaborati originariamente per stabilire il funzionamento e la creazione delle NHRI (Istituzioni nazionali per i diritti umani).
- I Principi di Parigi:
 - non hanno carattere vincolante, ma costituiscono un parametro per la creazione delle NHRI;
 - chiedono che le NHRI siano indipendenti;
 - prevedono il criterio del pluralismo (le NHRI devono rappresentare varie forze sociali coinvolte nella protezione e promozione dei diritti umani)

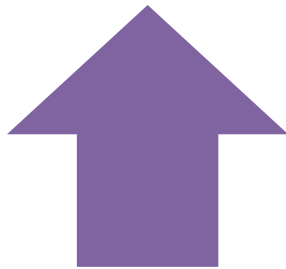


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QUADRO

- A. Struttura **obbligatoria**
- B. Deve includere “**uno o più meccanismi indipendenti**” in conformità ai Principi di Parigi
- C. Il riferimento ai Principi di Parigi non implica che le NRHI esistenti debbano essere designate come meccanismi indipendenti, MA il Comitato CRPD ha dichiarato che una NHRI soddisfa il requisito di indipendenza dell'articolo 33 (2) e che, qualora esista, deve far parte del quadro di monitoraggio

Tutti gli organi
del quadro
devono
essere
indipendenti?



La formulazione della versione in lingua inglese dell'articolo 33 (2) sembra **consentire la presenza di organi non indipendenti**, a condizione che sia presente almeno un organo indipendente (OHCHR, 2009)



de Beco e Hoefmans sostengono che sia "contro lo spirito" dell'articolo 33 (2) e che tutti gli organi all'interno del quadro debbano essere indipendenti

QUADRO

Deve svolgere, tra le altre, le seguenti mansioni.

- **Promuovere l'attuazione:** per es. informare, condurre attività didattiche e di sensibilizzazione, promuovere e mettere metodi e strumenti di attuazione a disposizione del governo nazionale, informare le persone con disabilità dei loro diritti
- **Monitorare l'attuazione:** valutare in che misura vi è stata una reale attuazione della convenzione
- **Svolgere l'attività di tutela:** per es. assistere in materia di tutela, senza essere gli unici responsabili, offrire un meccanismo di denuncia e ricorso, offrire servizi di mediazione, definire programmi di prevenzione, intraprendere "controversie strategiche" (aiutando le persone con disabilità a presentare un ricorso al Comitato CRPD)

L'art. 33 distingue chiaramente fra punti focali e quadro...

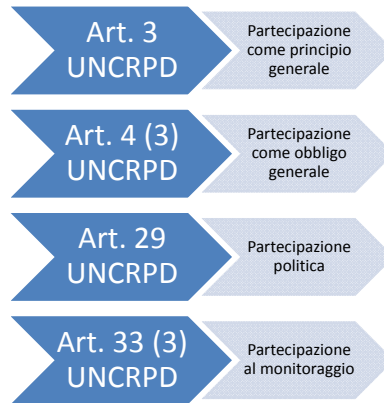


....ma punti focali, meccanismo di coordinamento e quadro devono essere **interconnessi**, e devono **interagire**...

Art. 33 (3) UNCRPD

“La società civile, in particolare le persone con disabilità e le organizzazioni che le rappresentano, dovranno essere coinvolte e pienamente partecipi del processo di monitoraggio”

Art. 33 (3) UNCRPD



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Partecipazione

Figure 1: Policy Cycle



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Art. 33 (3) UNCRPD

Gli Stati contraenti sono obbligati, in modo chiaro, a includere persone con disabilità e DPO nel processo di monitoraggio, MA la forma esatta di tale partecipazione non viene chiarita

Gli Stati hanno un margine discrezionale

La consultazione non è sufficiente

Il processo di monitoraggio deve essere accessibile alle persone con disabilità



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Art. 33 (3) UNCRPD

Quali sono i vantaggi del coinvolgere le persone con disabilità?



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Scenari comparativi

Alcune soluzioni adottate nell'UE

Punto focale

Quale
soluzione è
stata adottata
nel vostro
paese? Perché?

Punto focale unico

- Austria (Ministero federale del lavoro, affari sociali e tutela dei consumatori)
- Repubblica ceca (Ministero federale del lavoro e affari sociali)
- Danimarca (Ministero degli affari sociali)
- Italia (Direzione Generale per l'inclusione, i diritti sociali e la responsabilità sociale del Ministero del lavoro e delle politiche sociali)
- Lettonia (Ministero del welfare)
- Slovenia (Direzione per le persone con disabilità del Ministero per il lavoro, la famiglia e gli affari sociali)



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Più punti focali

Belgio

- Direzione generale per la strategia e la ricerca del Ministero degli affari sociali + punti focali subnazionali.

Germania

- Ministero federale del lavoro e gli affari sociali + 16 punti focali dei Länder (precipuamente nei rispettivi ministeri degli affari sociali)

Regno Unito

- Ufficio britannico per le disabilità (organismo intergovernativo che lavora con vari ministeri come punto focale) + punti focali in ciascuna delle amministrazioni devolute di Irlanda del Nord, Galles e Scozia.



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UE

- La decisione del Consiglio riguardante la conclusione, da parte dell'UE, della UNCRPD designa la **Commissione europea** come punto focale per l'attuazione della convenzione a livello UE
- Come punto focale, la Commissione promuove il coordinamento intersettoriale fra i suoi dipartimenti e gli altri organi e istituzioni dell'UE

UE

- Il PE ha raccomandato di creare un "punto focale" per la CRPD nell'ambito del servizio europeo per l'azione esterna e di insediare dei punti focali per la disabilità nelle delegazioni UE, designando funzionari di collegamento appositamente formati e in grado di offrire i vantaggi della loro competenza e professionalità alle persone con disabilità

Meccanismo di coordinamento

Il vostro paese
ha designato un
meccanismo di
coordinamento?

Meccanismo di coordinamento

**Il punto focale
incorpora anche una
funzione di
coordinamento**

Per es. Belgio, Italia,
Romania

**Strutture
interministeriali**

Per es. Svezia (Gruppo
di lavoro
interministeriale di
alto livello)

UE

Il coordinamento formale con gli Stati membri è garantito dal gruppo di lavoro sui diritti umani (COHOM) del Consiglio

Quadro

C'è grande diversità nelle soluzioni adottate per dare attuazione all'articolo 33 (2) CRPD da parte degli Stati membri UE contraenti della CRPD

La UNCRPD lascia la porta aperta...

1. alla designazione di un **unico meccanismo indipendente esistente** come "quadro" (per es. NHRI, difensore civico, organismi per la parità...)
2. alla creazione di un **nuovo** meccanismo indipendente
3. alla creazione di un quadro che includa sia **gli organismi esistenti che quelli nuovi** (per es. un "mix" di meccanismi indipendenti e altri organismi, come commissioni parlamentari, autorità giudiziarie, altri organismi ad hoc...)

MECCANISMO INDIPENDENTE

ESISTENTE

Germania

- Istituto tedesco per i diritti umani (NHRI)

Belgio

- Centro per le pari opportunità e il rifiuto del razzismo (organismo per la parità)

Lettonia

- Difensore civico lettone

Spagna

- Commissione spagnola dei rappresentanti delle persone con disabilità (CERMI)

Nuovo organismo ad hoc

L'Austria ha istituito il Comitato indipendente di monitoraggio con la Sezione 13 della *Legge federale sulle disabilità* dell'8 agosto 2008.

Partecipativo

Assicura il pluralismo della composizione

Indipendente dal punto di vista funzionale ma non da quello finanziario/organizzativo

Assolve le mansioni di tutela



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Nuovo organismo ad hoc

L'Italia ha previsto la creazione di un nuovo "organismo" misto come quadro: l'Osservatorio nazionale sulla condizione delle persone con disabilità

Partecipativo

Assicura il pluralismo della composizione

Non indipendente

Ibrido

Non assolve le mansioni di tutela



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Un quadro?

Danimarca

- Istituto danese dei diritti umani (DIHR), Consiglio danese per le disabilità e Difensore civico parlamentare danese

Lituania

- Consiglio per gli affari sulla disabilità e Difensore civico per le pari opportunità.

Un quadro UE?

Parlamento europeo

Mediatore europeo

Agenzia UE per i diritti fondamentali

Forum europeo della disabilità

Commissione

Un quadro UE?

“Il Comitato [CRPD] rileva con preoccupazione che il quadro dell'Unione europea per l'attuazione e il monitoraggio della Convenzione non è pienamente in linea con i principi di Parigi, né dotato delle risorse adeguate...”



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Un quadro UE?

La Commissione europea ha deciso di ritirarsi dal quadro UE a seguito della pubblicazione, da parte del Comitato CPRD, delle osservazioni conclusive sull'UE a settembre 2015. FRA è stata nominata, per consenso, presidenza e segretariato del quadro UE, a interim, a novembre 2015.



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Sfide e prospettive

Quali sono le sfide principali nel definire le strutture nazionali di attuazione e monitoraggio?

In che modo è possibile assicurare il coordinamento fra i vari organismi?

In che modo è possibile assicurare l'accessibilità?

Come creare
processi
partecipativi?

- Chi partecipa?
- In che misura è rappresentativo il partecipante?
- Quanto è efficace la partecipazione?

Diffusione delle migliori pratiche?



Imparare dalle migliori
pratiche

Considerare i diversi disegni
costituzionali di ogni Stato

Una buona pratica di
attuazione in uno Stato, se
trasposta in un altro
contesto giuridico,
potrebbe non funzionare
adeguatamente.

PROBLEMA DOMANDA



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Grazie per l'attenzione!



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*"EU DISABILITY LAW AND THE UN CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES"
SEMINAR FOR NATIONAL CIVIL SERVANTS AND NGO STAFF
ERA - Trier 29-30 May 2017*

WORKSHOP on Art. 33 UNCRPD

Dr. Delia Ferri

The State of Freedonia is a regional state composed by 15 regions and characterised by a rather asymmetric regionalism. It ratified the UNCRPD in January 2009.

In October 2009, the Freedonian Government designated as **national focal point the Ministry for Health and Welfare**. As of May 2017, the national focal point remains the sole focal point. The Regions have not designated yet any focal points, as this would be too expensive for their administrations.

No coordination mechanism was designated, and the Freedonian Government claimed this was unnecessary.

Freedonia does not have a NHRI. Thus, in 2010, after long discussion with two major umbrella DPOs, Regions and local administrations, the **Fredonian Equality Body** was given the mandate of the **framework**. Its necessary independence is guaranteed by freedom from instructions from the government. However, both the Freedonian Government and the Regions committed to **allocating the necessary funds** for the Equality Body to discharge its mandate as effectively as possible.

In 2012, further to several complaints raised by DPOs for their lack of involvement in the monitoring process, the Freedonian Government set up an **additional consultative body**, with

a view to involving civil society at large in activities connected with the implementation of the Convention. It does not, however, formally designate it as part of the framework, and gives it a rather wide mandate. In addition, the consultative body is chaired by the Ministry of Health and Welfare.

Associations that represent persons with disabilities and defend their rights, as well as civil society more broadly are then involved in policy making through **multilateral meetings** organized convened and chaired by the Ministry of Health and Welfare.

1. Is Freedonia in compliance with Art. 33(1) UNCRPD?
2. Is the Freedonian single focal point system effective?
3. Is Freedonia in compliance with Art. 33(2) UNCRPD?
4. Is participation of DPOs sufficiently ensured?



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*“DIRITTO DELL'UE E CONVENZIONE DELL'ONU SUI DIRITTI DELLE PERSONE CON DISABILITÀ”
SEMINARIO PER FUNZIONARI NAZIONALI E MEMBRI DELLE ONG
ERA - Treviri 29-30 maggio 2017*

WORKSHOP sull'art. 33 UNCRPD

Dr.ssa Delia Ferri

Freedonia è uno stato regionale composto da 15 regioni e caratterizzato da un regionalismo piuttosto asimmetrico. Ha ratificato la UNCRPD a gennaio 2009.

Nell'ottobre del 2009, il governo di Freedonia ha nominato come **punto focale nazionale il Ministero della Salute e degli Affari Sociali**. Da maggio 2017 il punto focale nazionale rimane l'unico punto focale. Le Regioni, da parte loro, non hanno ancora nominato alcun punto focale, in quanto troppo costoso per le rispettive amministrazioni.

Non è stato designato alcun meccanismo di coordinamento. Il governo di Freedonia ha confermato che non ve ne era la necessità.

Freedonia non dispone di un'istituzione nazionale per i diritti umani (NHRI). Così, nel 2010, dopo lunghe discussioni con due importanti organizzazioni ombrello che si occupano di persone con disabilità (DPO), nonché con Regioni e amministrazioni locali, all'**Organismo per la parità di Freedonia** è stato conferito il mandato di **quadro**. La sua necessaria indipendenza è garantita dall'essere libera da istruzioni impartite dal governo. Tuttavia, sia il governo di Freedonia che le Regioni si impegnano a **stanziare i fondi necessari** affinché l'Organismo per la parità possa svolgere i propri incarichi nel modo più efficace possibile.

Nel 2012, a seguito di diverse lamentele delle DPO per il loro mancato coinvolgimento nel processo di monitoraggio, il governo di Freedonia istituisce un **ulteriore organo consultivo**, con l'obiettivo di coinvolgere l'intera società civile nelle attività legate all'attuazione della Convenzione. Non designa, tuttavia, tale organo come parte integrante del quadro. Gli attribuisce, anzi, un mandato piuttosto ampio. L'organo consultivo, inoltre, è presieduto dal Ministero della Salute e degli Affari sociali.

Le associazioni che rappresentano le persone con disabilità e ne difendono i diritti, oltre che la società civile nel complesso, vengono coinvolte nel processo decisionale attraverso **riunioni multilaterali** che sono organizzate, convocate e presiedute dal Ministero della Salute e degli Affari sociali.

1. Lo Stato di Freedonia rispetta l'art. 33 (1) UNCRPD?
2. È efficace il sistema di punto focale unico dello Stato di Freedonia?
3. Lo Stato di Freedonia rispetta l'art. 33 (2) UNCRPD?
4. La partecipazione delle DPO è sufficientemente garantita?

The Right to Inclusive Education: Article 24 CRPD

UNCRPD Seminar for National Civil Servants and NGO Staff, Trier, 29-30 May 2017

Dr. Andrea Broderick
Assistant Professor, Maastricht University



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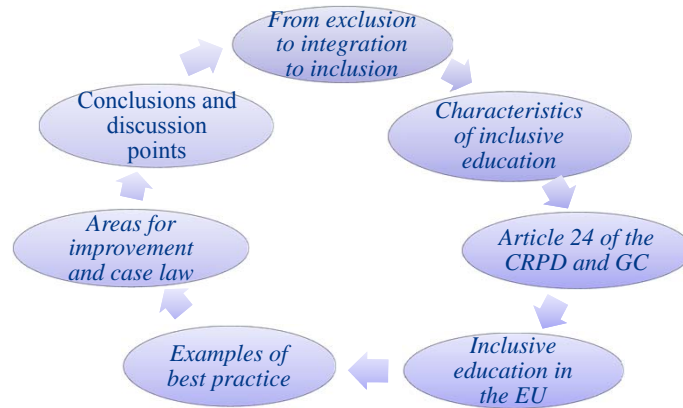
The Right to Education for Persons with Disabilities

- A diversity of learning conditions, not only for children with disabilities, but for all students
- The right to education is both an end in itself, as well as a means towards attaining all other human rights
- Former UN Special Rapporteur on Education, Katarina Tomasevski, has described education as 'a bridge to all human rights' - *K. Tomasevski, Education Denied (2003)*
- Education has been described as 'the primary vehicle by which economically and socially marginalized adults and children can [...] obtain the means to participate fully in their communities' - *Committee on Economic, Social and Cultural Rights, General Comment 13 (1999)*



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Structure of Presentation



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The Shift from Exclusion to Integration to Inclusion



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Exclusion

- Disabled people viewed as different from the 'norm'
- Deficit-based approach
- Unable to cope with mainstream educational systems
- Education in segregated settings

Integration

- Gradual realisation that disabled people should be allowed to be educated in the mainstream
- However, the system of integration did not focus on alterations to the norm
- Instead, the disabled individual had to adapt to the learning environment
- Can lead to exclusion in practice



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Inclusion in Education

- The international law reform trend is focused on inclusion
- Social model and human rights model of disability: Removal of barriers, adaptation and modification of systems to ensure effective participation
- Disabled learner not required to simply 'fit in'
- A competing 'discourse of difference' in Europe



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Characteristics of Inclusive Education



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Characteristics of Inclusive Education

- Inclusive education has been described as a:

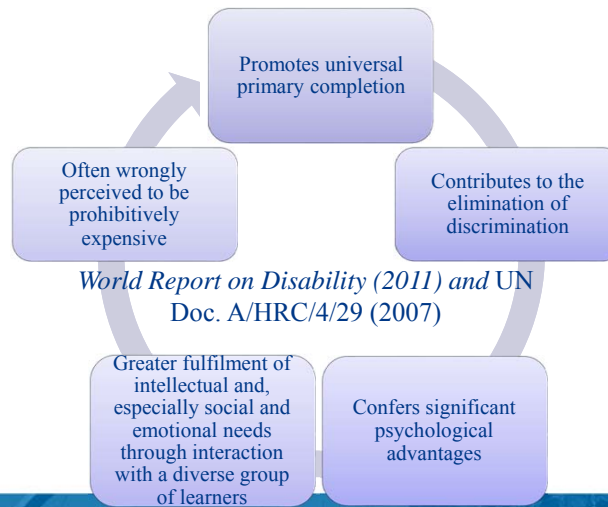
‘Process of addressing and responding to the diversity of needs of all learners by increasing participation in learning, cultures and communities, and reducing exclusion within and from education.’

- UNESCO, *Overcoming Exclusion through Inclusive Approaches in Education: A Challenge and a Vision, Conceptual Paper* (UNESCO 2003)



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Advantages of Inclusive Education



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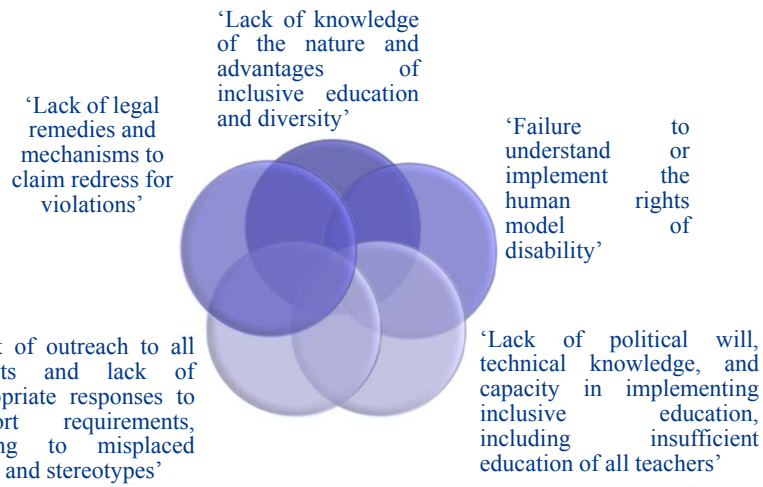
Cost Assessment of Inclusive Education

- The transitional period in ensuring the transformation of special educational systems to fully inclusive systems may incur significant outlays in terms of resources. However, the cost benefits in the long term are assured (*Broderick, 2015*)
- It has been recognised that ‘inclusive educational settings are generally less expensive than segregated systems [...]’ when appropriately implemented (*UN Doc. A/HRC/4/29, 19 February 2007*)
- Inclusion International has estimated that inclusive education may be seven to nine times cheaper than segregated education (*Inclusion International, 2009*)



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Barriers to Inclusive Education: GC No. 4



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The Right to Education under Article 24 *UNCRPD*



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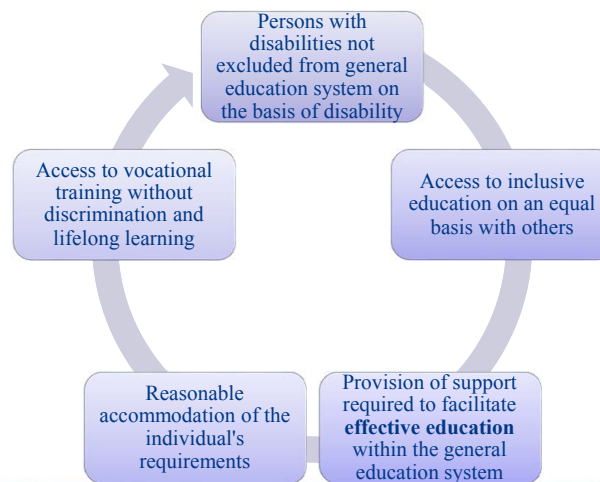
Article 24 UNCRPD: Purposes of Inclusive Education

- The full development of human potential and sense of dignity and self-worth, and the strengthening of respect for human rights, fundamental freedoms and human diversity
- The development by persons with disabilities of their personality, talents and creativity, as well as their mental and physical abilities, to their fullest potential
- Enabling persons with disabilities to participate effectively in a free society



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Article 24 UNCRPD: Core Norms



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Social Model and Human Rights Based Model of Disability



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Reasonable Accommodations

- Reasonable accommodations are immediate individualised adaptations, upon request
- Providing special treatment or facilities, or making adjustments in order to enable access to education
- Provision of reasonable accommodation is subject to a disproportionate burden defence
- **For example:** Allowing students with disabilities extra time in exams or provision of a ramp to enable physical access



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Individualised Supports under Article 24 CRPD

- Support measures are generalised measures used to adapt the overall education system and aimed at gradually achieving inclusive education
- Must still be tailored to suit an individual's needs, where necessary
- 'Where the resources of a given State are constrained, there will be some leeway for States to ensure that supports are put in place gradually with a view to achieving fully inclusive systems over the medium-to-long term' (*Broderick 2015*)



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Support Measures to Ensure Inclusive Education

(*Council of Europe 1st School Report 2014; Waddington and Broderick 2017; Broderick 2015*)

- 'Adaptation of the curriculum and materials to suit students with different types of disabilities'
- 'Adapted forms of instruction (additional lessons, small group work, pedagogic assistants, collaborative learning/problem-solving)'
- 'Incorporating methodologies on inclusive education into teacher-training syllabuses'
- Using 'pyramid training techniques whereby teachers, once trained in inclusive-education methodologies, teach other teachers'



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Support Measures to Ensure Inclusive Education

(Council of Europe 1st School Report 2014; Waddington and Broderick 2017; Broderick 2015)

- ‘Providing interpretative assistance for persons with hearing impairments and sign language for students with visual impairments’
- ‘Promoting the capabilities of students with disabilities’ through awareness-raising
- ‘Collection of disaggregated data/statistics in order to identify special educational needs within the student population’



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Article 24(3) UNCRPD: Norms for Blind/Deaf Students and those with Communication Difficulties

- Facilitating the learning of Braille and sign language
- Employing teachers, including teachers with disabilities, who are qualified in the use of sign language
- Appropriate languages and modes and means of communication for the individual, in environments which maximize academic and social development
- Providing training to teachers on disability awareness and the use of appropriate forms of communication



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Article 24 UNCRPD: General Comment 4

Availability:

‘Functioning institutions and programmes must be available in sufficient quantity within States, including, for example, a requirement to have accurate data on persons with disabilities’

Accessibility:

‘Educational institutions and programmes must be accessible to everyone, without discrimination. States parties must commit to the prompt introduction of Universal Design’

Acceptability:

‘The obligation to design and implement all education-related facilities, goods and services must respect the requirements, cultures, views and languages of persons with disabilities’

Adaptability:

The Committee encourages States parties ‘to apply the Universal Design for Learning (UDL) approach’



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Article 24 UNCRPD: General Comment 4

Paragraph 24(2)(a):

‘Direct exclusion (classifying certain students as “non-educable”) and indirect exclusion (such as the requirement to pass an entrance test without reasonable accommodation’

Paragraph 24(2)(b):

‘Requires that persons with disabilities are able to attend primary and secondary schools within the communities where they live’

Paragraph 24(2)(c):

‘An analysis of the relevance and the effectiveness of the accommodation, and the expected goal of countering discrimination versus the availability of resources’

Paragraph 24(2)(d):

‘Support to ensure students with disabilities are able to fulfil their potential - trained teaching staff, counsellors, psychologists and other health and social service professionals; access to scholarships and financial resources’



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Article 24 UNCRPD: General Comment 4

Paragraph 24(2)(e):

'Individualised education plans, which can identify the reasonable accommodations and specific support required for an individual student'

Paragraph 24(3):

'Many States are failing to make appropriate provision, particularly for those with communication impairments and with sensory disabilities'

Paragraph 24(3):

'Learners with social communication difficulties must be supported through adaptations, including working in pairs, peer tutoring, seating close to the teacher and a structured environment'

Paragraph 24(3):

'Hard-of-hearing students must also have access to quality speech therapy services, induction loop technology and captioning'



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Continued Debate on Segregation

'Research has shown that as many as 80 to 90 per cent of children with special education needs, including children with intellectual disabilities, can easily be integrated into regular schools and classrooms, as long as there is basic support for their inclusion' (UN, *From Exclusion to Equality*, 2007)

What about those students with extremely high support needs?

Can inclusion in mainstream education always be 'effective'?



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Continued Debate on Segregation

Article 24(3):

Allows for special educational systems in limited circumstances – where necessary to cater for individuals who are blind, deaf or deaf-blind

Article 24(2)(e):

Effective individualised support measures to be provided in environments that maximize academic and social development, consistent with the goal of full inclusion.

Is there some leeway for States, in terms of educational provision, where fully inclusive education is not yet feasible?



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Inclusive Education at the EU Level and in Member States



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Inclusive Education in the European Context

- **The Europe 2020 strategy:** Target of reducing the number of early school leavers from 15% to 10%, whilst increasing the share of the population aged 30-34 who have completed tertiary education from 31% to at least 40%
- **The European Disability Strategy 2010-2020** notes that disabled people are much less likely to participate in post-school education and to obtain employment than non-disabled people
- Removing barriers and improving outcomes for disabled people is critical to the overall economic and social objectives of the EU



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Inclusive Education in EU Member States

Information taken from *Waddington and Broderick (2016)*

- The legislative provisions and policy documents in many EU Member States 'demonstrate a trend towards inclusion of persons with disabilities in mainstream education'
- The CRPD's entry into force has influenced certain policies in EU Member States
- Some countries have drafted new legislative provisions



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Changes in Legislation Post-CRPD

Information taken from Waddington L. and Broderick A (2016)

In **Denmark**, the Act on State School was amended in recent years with the aim of including more students with special needs in mainstream education

The **Czech** Parliament has endorsed a new definition of students with special educational needs under Section 16(1) of the Schools Law, which focuses on provision of support to ensure equal educational opportunities



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Changes in Legislation Post-CRPD

Information taken from Waddington L. and Broderick A (2016)

Under Section 11 of the 2010 **Slovenian Act** on Equal Opportunities of People with Disabilities, there is a duty to ensure to people with disabilities inclusion into educational programmes at all levels

In the **Netherlands**, the Tailored Education Act on special education for intellectually and physically disabled students imposes an obligation on mainstream schools to accept students and to offer them an adapted learning programme



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Inclusive Education Trends, Latest Developments and Examples of Good Practice



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CRPD Committee Concluding Observations

The UNCRPD Committee has commended Sweden for its education system, in which only 1.5% of children are instructed outside inclusive, mainstream schools

The CRPD Committee has also commended Italy, which for the last three decades has been 'striving to implement an inclusive education system free of segregation'

In Portugal, as a result of Decree Law No. 3/2008 (as amended), '98% of students with disabilities in Portugal attended regular schools in 2015'



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Good Practice: Austria

Information taken from Waddington and Broderick (2017)

- In 2014, the University of Vienna conducted an online survey to identify the level of diversity among students, including with regard to disability and ethnicity
- The focus of the survey was on the relevance of those factors for the selection of studies and progress made in higher level education
- The online survey provides a starting point for working towards the goal of better inclusion of students with disabilities and/or chronic diseases in higher education



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Latest Developments: Austria

Information taken from Waddington and Broderick (2016)

- In **Austria**, the Federal Monitoring Board (*Monitoringausschuss*) addressed a report to the CRPD Committee, outlining changes that have been made to the Austrian legal system to ensure compliance with the Convention:



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Good Practice: Finland

Information taken from incluD-ed (2012) & Waddington and Broderick (2017)

- The Finnish government began a national higher education accessibility project (abbreviated as ESOK in Finnish) in 2006
- The objective of ESOK was to ensure equal opportunities and barrier-free environments or accessibility with regard to student selection, entrance examinations, evaluations and study, taking into account individual needs
- Persons with disabilities participated in ESOK as experts in working groups and teams that produced the guidelines and recommendations for the project



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Good Practice: Italy

- Italy has made concerted efforts over the past 30 years to ensure inclusion in education and has one of the highest levels of inclusion in the EU

Law 517/1977 abolished segregated schools and special needs classes within mainstream schools for pupils with disabilities



Law 104/1992 reaffirms the right to inclusive education of all persons with disabilities



Law 107/2015 "LaBuonaScuola" was approved in 2015 and promotes further reforms



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Good Practice: Malta

Information taken from Waddington and Broderick (2016)

- The 'Education For All Special Needs and Inclusive Education: External Audit Report', was drawn up in 2014 in order to measure the effectiveness of steps taken to ensure inclusive education
- The report 'recommends the development of a ten-year plan for education with wide stakeholder consultation in order to ensure that current plans related to inclusive education are implemented and sustained over the long term'



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Good Practice: Spain

Information taken from incluD-ed (2012) & Waddington and Broderick (2017)

- Spanish project "Your Education Has No Limits: Develop Your Future"
- The project 'aims to raise awareness about disability issues, and to promote participation of persons with disabilities in universities and the workplace through awareness-raising campaigns targeted at students in compulsory secondary education'
- The main goal of the project is to create a significant increase in the number of students with disabilities attending Spanish universities



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Areas for Improvement



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Continuing Inequalities

(UNICEF, A regional study on education in Central and Eastern Europe and the Commonwealth of Independent States (2007))

- A 2007 regional study on education in Central and Eastern Europe identified 2.4 million “missing children”, of primary school age still outside the education system and 12 million children of secondary school age not in education (Turkey, the Russian Federation and the Ukraine, rural areas in Tajikistan, Turkey and Albania)
- Minority ethnic groups (including Roma) at an educational disadvantage in several countries (Bulgaria, Hungary, Romania, Serbia, Montenegro and Macedonia) => ‘under-represented in the school population and over-represented in residential care institutions and special schools’
- Inequalities among disabled children ‘highlighted as a significant problem’, with ‘limited educational opportunities for disabled children outside institutional provision in several countries’(for instance, Belarus, Bulgaria, Moldova)



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CRPD Committee Concluding Observations and Other Criticisms

The CRPD Committee has noted that progress towards inclusive education in **Austria** appears to 'have stagnated' and that 'insufficient effort' has been made to support the inclusive education of children with disabilities

The 2010 shadow report presented by the Hungarian Disability Caucus strongly criticises the provision of education for disabled students in **Hungary**

In **Cyprus**, the Commissioner for the Rights of the Child has stated that the fragmentation in support services for disabled children and their parents has resulted in a trend towards special education

Information taken from OHCHR website and Waddington and Broderick 2016)



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CRPD Committee Concluding Observations and Other Criticisms

The Committee is concerned about the 'absence of data and indicators to monitor the quality of education and inclusion of students with disabilities in mainstream schools and classes' in **Italy**

(CRPD Committee, Concluding Observations)

Inter-Federal Centre for Equal Opportunities (2014): Pupil must adapt 'to the limitations imposed on him by the school' and 'in the various Communities there is still no long-term strategy and vision (including budgeting) for inclusive education'

The Croatian Disability Ombudsman: Provision of assistants to disabled students is 'an area which lacks regulation and it is creating considerable barriers to the inclusion of students with disabilities in mainstream education.'
(Broderick and Waddington, 2016)



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Case Law/Decisions



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National Case Law (Broderick and Waddington, 2016)

In 2009, the **Spanish National High Court** ruled that the laws governing the grant of scholarships should be subject to provision of reasonable accommodation and ordered that a scholarship refused to the applicant (after applying the same criteria as to non-disabled students) should be granted.

Spanish Audiencia Nacional, Appeal 160/2007, 2 November 2009, 86

The **Italian Court of Cassation** ruled in a case where the parents of a disabled child had challenged the reduction in hours of the child's support teacher. The Court held that the reduction was not valid and affirmed that the right to education is a fundamental right of persons with disabilities.

Italian Court of Cassation of 18 November 2014 No. 25011



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National Decisions

(Broderick and Waddington, 2016)

The Equal Treatment Commission (now the **Netherlands Institute for Human Rights**): A complaint brought by a student with dyscalculia with regard to the failure of a school to provide reasonable accommodation (they claimed use of mathematics charts were prohibited under law). The Commission noted that the school should still have offered the pupil a reasonable accommodation, in spite of the existence of such a prohibition in the regulations.

Decisions in 2006 and 2008 given by the **Cypriot Equality Body**: Found that the Ministry of Education's practice of only providing additional examination time was discriminatory towards children with dyslexia and also that the two national laws regulating the issue of exams were indirectly discriminatory. The Equality Body requested that the two laws in question be revised in order to provide for additional accommodations.



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European Court of Human Rights: Cam v Turkey

- The ECtHR's 1st disability equality decision on non-compulsory education
- The Court ruled unanimously that there had been a violation of Article 14, in conjunction with Article 2 of Protocol No 1 ECHR (on the right to education), due to the refusal of the Turkish National Music Academy to enrol the applicant as a student because of her visual impairment
- The Court referred to the importance of inclusive education and, in particular, the definition of reasonable accommodation enshrined in Article 2 CRPD
- The Court ruled that the notion of discrimination on the ground of disability extends to the refusal to provide a reasonable accommodation to facilitate access for a disabled person to education, in line with the CRPD



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- United Nations, *From Exclusion to Equality: Realizing the Rights of Persons with Disabilities: Handbook for Parliamentarians* (2007)
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- Committee on Economic, Social and Cultural Rights, General Comment 13 on the Right to Education (1999)



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Discussion Points

How is the situation in your country regarding segregation and inclusion?

Which barriers still exist in your country?



To what extent has legislation been amended following entry into force/ratification of the CRPD?



What is your opinion on inclusion of persons with very severe disabilities in mainstream education – can it work and, if so, what are the most appropriate methods?



Are DPOs and other civil society organisations involved in implementing Article 24 CRPD in your country? Do you believe strategic litigation can help to solve the problem?



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THANK YOU FOR YOUR ATTENTION

Contact: andrea.broderick@maastrichtuniversity.nl



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Il diritto a un'educazione inclusiva: articolo 24 CRPD

Seminario UNCRPD per funzionari nazionali e membri delle ONG,
Treviri, 29-30 maggio 2017
Dr. Andrea Broderick

Professore associato, Università di Maastricht



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Il diritto all'educazione per le persone con disabilità

- Diversità delle condizioni di apprendimento, non soltanto per bambini con disabilità, ma per tutti gli studenti
- Il diritto all'educazione non è solo un obiettivo in sé, ma anche uno strumento per l'acquisizione di tutti gli altri diritti umani
- Katarina Tomasevski, ex Relatore speciale dell'ONU sul diritto all'educazione, ha descritto l'educazione come "un ponte verso tutti i diritti umani" - *K. Tomasevski, Education Denied (2003)*
- L'educazione è stata descritta come "lo strumento principale attraverso il quale adulti e bambini economicamente e socialmente emarginati possono [...] procurarsi i mezzi per partecipare a pieno alla vita delle loro comunità" - *Comitato sui diritti economici, sociali e culturali, Commento generale n.13 (1999)*



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Struttura della presentazione



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Il passaggio dall'esclusione, all'integrazione e all'inclusione



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Esclusione

- Persone con disabilità considerate diverse dalla “norma”
- Approccio basato sul deficit
- Incapacità di affrontare i sistemi scolastici tradizionali
- Educazione in contesti differenziati

Integrazione

- Graduale consapevolezza che le persone con disabilità possano ricevere un'educazione nel sistema scolastico convenzionale
- Tuttavia, il sistema di integrazione non è stato incentrato sulle alterazioni alla norma
- È stata invece la persona disabile a doversi adattare al sistema didattico
- Può portare, nella pratica, all'esclusione



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Inclusione nel sistema scolastico

- La riforma legislativa internazionale è incentrata sull'inclusione
- Modello sociale di disabilità e modello di disabilità basato sui diritti umani: eliminazione delle barriere, adattamento e modifica dei sistemi per garantire una reale partecipazione
- Al discente con disabilità non è richiesto semplicemente di “adattarsi”
- Un “discorso di differenza” concorrenziale a livello europeo



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Caratteristiche dell'educazione inclusiva



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Caratteristiche dell'educazione inclusiva

- L'educazione inclusiva è stata descritta come:

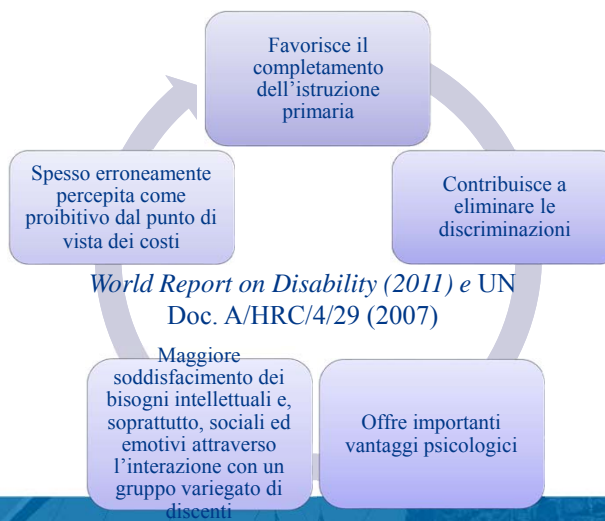
“Il processo nel quale si affrontano e si soddisfano i diversi bisogni di tutti gli studenti aumentandone la partecipazione all'apprendimento, alle culture e alle comunità e riducendone l'esclusione dal sistema scolastico e all'interno dello stesso.”

- UNESCO, *Overcoming Exclusion through Inclusive Approaches in Education: A Challenge and a Vision, Conceptual Paper* (UNESCO 2003)



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Vantaggi dell'educazione inclusiva



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Valutazione dei costi dell'educazione inclusiva

- Il periodo di transizione per garantire la trasformazione dei sistemi scolastici speciali in sistemi pienamente inclusivi può comportare costi notevoli in termini di risorse. A lungo termine, tuttavia, i benefici sono garantiti (*Broderick, 2015*)
- È stato riconosciuto che “contesti educativi inclusivi sono generalmente meno costosi rispetto a sistemi differenziati [...]” se attuati correttamente (*UN Doc. A/HRC/4/29, 19 febbraio 2007*)
- Inclusion International ha valutato che l'educazione inclusiva può essere da sette a nove volte più economica dell'educazione differenziata (*Inclusion International, 2009*)



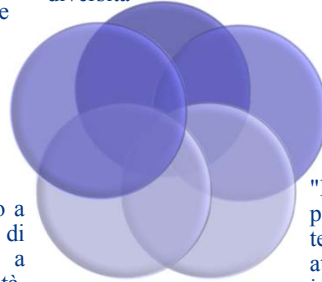
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Barriere all'educazione inclusiva: CG n. 4

"Mancanza di rimedi giuridici e di meccanismi per ricorrere contro le violazioni"

"Mancata conoscenza della natura e dei vantaggi dell'educazione inclusiva e della diversità"

"Mancata comprensione o attuazione del modello di disabilità basato sui diritti umani"



"Mancanza di sostegno a tutti i genitori e di risposte adeguate a supporto delle necessità, generando stereotipi e paure fuori luogo"

"Mancanza di volontà politica, di conoscenza tecnica e di capacità di attuare un'educazione inclusiva, compresa la preparazione insufficiente di tutti gli insegnanti"



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Il diritto all'educazione ai sensi dell'articolo 24 UNCRPD



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Articolo 24 UNCRPD: finalità dell'educazione inclusiva

- Pieno sviluppo del potenziale umano, del senso di dignità, dell'autostima e rafforzamento del rispetto dei diritti umani, delle libertà fondamentali e della diversità umana
- Sviluppo, da parte delle persone con disabilità, della loro personalità, del talento e della creatività, nonché delle loro capacità fisiche e mentali, al loro massimo potenziale
- Far sì che le persone con disabilità possano essere realmente partecipi di una società libera



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Articolo 24 UNCRPD: norme fondamentali



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Modello sociale di disabilità e modello di disabilità basato sui diritti umani



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Accomodamenti ragionevoli

- Gli accomodamenti ragionevoli sono gli adattamenti personalizzati immediati, su richiesta
- Fornire trattamenti o attrezzature speciali, o effettuare modifiche al fine di garantire l'accesso all'educazione
- Fornire un accomodamento ragionevole a condizione che non comporti un onere finanziario sproporzionato
- **Per esempio:** Concedere a studenti con disabilità più tempo per gli esami o predisporre una rampa che ne consenta l'accesso fisico



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Misure personalizzate di supporto ai sensi dell'articolo 24 CRPD

- Le misure di supporto sono misure di carattere generale utilizzate per adattare il sistema scolastico nel suo complesso e finalizzate alla graduale realizzazione di un'educazione inclusiva
- Devono essere comunque adattate, all'occorrenza, alle esigenze della persona
- "Laddove le risorse di uno Stato siano limitate, gli Stati avranno un certo margine di libertà per assicurare che le misure di supporto siano attuate gradualmente al fine di realizzare sistemi pienamente inclusivi a medio-lungo termine" (*Broderick 2015*)



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Misure di supporto per garantire un'educazione inclusiva

(*Consiglio d'Europa, 1a relazione sulla scuola 2014; Waddington e Broderick 2017; Broderick 2015*)

- "Adattamento del piano di studio e dei materiali in funzione degli studenti con diversi tipi di disabilità"
- "Modalità di istruzione adattate (lezioni aggiuntive, lavoro in piccoli gruppi, assistenti pedagogici, apprendimento collaborativo/problem-solving)"
- "Inserire metodologie relative all'educazione inclusiva nei programmi di formazione degli insegnanti"
- Utilizzare "tecniche di formazione a piramide con le quali gli insegnanti, una volta formati sulle metodologie dell'educazione inclusiva, formano altri insegnanti"



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Misure di supporto per garantire un'educazione inclusiva

(Consiglio d'Europa, 1a relazione sulla scuola 2014; Waddington e Broderick 2017; Broderick 2015)

- "Fornire assistenza interpretativa a persone audiolese e il linguaggio dei segni a studenti ipovedenti"
- "Favorire lo sviluppo delle capacità di studenti con disabilità" attraverso azioni di sensibilizzazione
- "Raccolta di statistiche/dati disaggregati al fine di individuare bisogni educativi speciali all'interno della popolazione studentesca"



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Articolo 24 (3) UNCRPD: norme relative a studenti sordi/ciechi e con difficoltà di comunicazione

- Agevolare l'apprendimento del Braille e del linguaggio dei segni
- Impiegare insegnanti, inclusi quelli con disabilità, qualificati nell'uso del linguaggio dei segni
- Utilizzare linguaggi, modalità e mezzi di comunicazione appropriati per la persona, in ambienti che consentano il massimo sviluppo accademico e sociale
- Formare gli insegnanti sulla sensibilizzazione verso la disabilità e sull'utilizzo di forme di comunicazione appropriate



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Articolo 24 UNCRPD: Commento generale n. 4

Disponibilità

"Istituzioni e programmi funzionanti devono essere disponibili in quantità sufficiente all'interno degli Stati, inclusa, per esempio, la disponibilità di dati accurati sulle persone con disabilità"

Accessibilità

"Istituzioni e programmi educativi devono essere accessibili a tutti, senza discriminazione. Gli Stati contraenti devono impegnarsi per la rapida introduzione della progettazione universale"

Accettabilità

"L'obbligo di progettare e realizzare ogni struttura, prodotto e servizio collegato all'educazione, nel rispetto di necessità, culture, opinioni e linguaggi delle persone con disabilità"

Adattabilità

Il Comitato incoraggia gli Stati contraenti "a seguire l'approccio alla Progettazione Universale per l'Apprendimento (UDL)"



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Articolo 24 UNCRPD: Commento generale n. 4

Paragrafo 24 (2) (a)

"Esclusione diretta (classificando alcuni studenti come "non educabili") ed esclusione indiretta (come l'obbligo di superare un test di ingresso senza accomodamento ragionevole")

Paragrafo 24 (2) (b)

"Richiede che le persone con disabilità possano frequentare le scuole primarie e secondarie all'interno delle comunità in cui vivono"

Paragrafo 24 (2) (c)

"Analisi della rilevanza e dell'efficacia dell'accomodamento e dell'obiettivo previsto di contrastare la discriminazione con la disponibilità delle risorse"

Paragrafo 24 (2) (d)

"Supporto per garantire che gli studenti con disabilità siano in grado di realizzare il proprio potenziale - professionisti appositamente formati: insegnanti, consulenti, psicologi e altri operatori sanitari e dei servizi sociali, accesso a borse di studio e borse finanziarie"



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Articolo 24 UNCRPD: Commento generale n. 4

Paragrafo 24 (2) (e)

"Piani educativi personalizzati, che individuino accomodamenti ragionevoli e il supporto specifico necessario per il singolo studente"

Paragrafo 24 (3)

"Molti Stati non stanno adottando misure appropriate, soprattutto per le persone con difficoltà di comunicazione e disabilità sensoriali"

Paragrafo 24 (3)

"Gli studenti con difficoltà sociali di comunicazione devono essere supportati tramite adattamenti, incluso il lavoro a coppie, il sostegno tra pari, la possibilità di sedere accanto all'insegnante e un ambiente strutturato"

Paragrafo 24 (3)

"Gli studenti ipoudenti devono anche avere accesso a servizi di qualità di terapia del discorso, amplificazione a induzione magnetica e sottotitoli"



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Proseguimento del dibattito sulla segregazione

"La ricerca ha dimostrato che fino all'80-90% dei bambini con bisogni educativi speciali, inclusi i bambini con disabilità intellettive, può essere integrato facilmente in scuole e classi regolari, purché vi sia un supporto di base alla loro inclusione" (UN, *From Exclusion to Equality*, 2007)

E nel caso di studenti che necessitano di misure di supporto estremamente rilevanti?

L'inclusione nel sistema scolastico generale può essere sempre "efficace"?



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Proseguimento del dibattito sulla segregazione

Articolo 24 (3):

Prevede sistemi educativi speciali in circostanze limitate - laddove sia necessario provvedere ai bisogni di persone cieche, sorde o sordocieche

Articolo 24 (2) (e):

Efficaci misure di supporto individualizzato devono essere fornite in ambienti che ottimizzino lo sviluppo scolastico e sociale, in linea con l'obiettivo della piena integrazione.

Sono previsti margini discrezionali per gli Stati, in termini di offerta educativa, nei casi in cui un'educazione pienamente inclusiva non sia ancora realizzabile?



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Educazione inclusiva a livello dell'UE e negli Stati membri



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Educazione inclusiva nel contesto europeo

- **La strategia Europa 2020:** obiettivo di ridurre dal 15 al 10% gli abbandoni scolastici precoci, e di aumentare, al contempo, dal 31% ad almeno il 40%, la percentuale di popolazione tra i 30 e i 34 anni che abbia portato a termine l'istruzione terziaria
- **La strategia europea sulla disabilità 2010-2020** sottolinea che le persone con disabilità hanno molte meno probabilità di accedere all'istruzione post-scolastica e di ottenere un impiego rispetto alle persone non disabili
- Eliminare le barriere e migliorare i risultati a favore delle persone con disabilità sono due aspetti fondamentali per gli obiettivi economici e sociali globali dell'UE



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Educazione inclusiva negli Stati membri dell'UE

Informazioni e tratte da *Waddington e Broderick (2016)*

- Le disposizioni legislative e i documenti programmatici di molti Stati membri UE "dimostrano la tendenza all'inclusione delle persone con disabilità nel sistema scolastico convenzionale"
- L'entrata in vigore della CRPD ha influenzato alcune politiche negli Stati membri UE
- Alcuni paesi hanno redatto nuove disposizioni legislative



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Modifiche legislative post-CRPD

Informazioni tratte da Waddington L. e Broderick A (2016)

In **Danimarca**, la Legge sulla scuola pubblica è stata modificata negli ultimi anni allo scopo di includere nel sistema scolastico convenzionale un maggior numero di studenti con bisogni speciali

Il parlamento **ceco** ha avallato una nuova definizione di studenti con bisogni educativi speciali nella Sezione 16 (1) della Legge sulla scuola, incentrata sul supporto da fornire per garantire pari opportunità di istruzione



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Modifiche legislative post-CRPD

Informazioni tratte da Waddington L. e Broderick A (2016)

La Sezione 11 della **Legge slovena** 2010 sulle pari opportunità per le persone con disabilità prevede l'obbligo di garantire l'inclusione delle persone con disabilità in tutti i livelli dei programmi educativi

Nei **Paesi Bassi**, la Legge sull'istruzione personalizzata riguardante l'istruzione speciale per studenti con disabilità intellettive e fisiche stabilisce l'obbligo, per il sistema scolastico convenzionale, di accogliere gli studenti e offrire loro un programma di studio adattato



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Tendenze, ultimi sviluppi ed esempi di buone pratiche in materia di educazione inclusiva



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Osservazioni conclusive del Comitato CRPD

Il Comitato UNCRPD ha elogiato la Svezia per il suo sistema scolastico. Infatti, solo l'1,5% dei bambini riceve un'istruzione al di fuori del sistema scolastico inclusivo convenzionale

Il Comitato CRPD ha elogiato anche l'Italia, che negli ultimi tre decenni "si è impegnata per attuare un sistema scolastico inclusivo e privo di forme di segregazione"

In Portogallo, per effetto del Decreto legge n. 3/2008 (e successive modifiche), il "98% degli studenti con disabilità ha frequentato scuole regolari nel 2015"



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Buone pratiche: Austria

Informazioni tratte da Waddington e Broderick (2017)

- Nel 2014, l'Università di Vienna ha lanciato un sondaggio online per individuare il livello di diversità tra gli studenti, anche in riferimento alla disabilità e all'origine etnica
- Il sondaggio era incentrato sull'importanza di tali fattori nella scelta degli studi e nei progressi compiuti nell'istruzione di grado superiore
- Il sondaggio online costituisce un punto di partenza per lavorare all'obiettivo di una migliore inclusione degli studenti con disabilità e/o malattie croniche nel sistema di istruzione superiore



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Ultimi sviluppi: Austria

Informazioni tratte da Waddington e Broderick (2016)

- In **Austria**, il Consiglio federale di monitoraggio (*Monitoringausschuss*) ha presentato un rapporto al Comitato CRPD in cui si evidenziano le modifiche apportate al sistema giuridico austriaco per garantire il rispetto della Convenzione



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Buone pratiche: Finlandia

Informazioni tratte da *includ-ed (2012)* & *Waddington e Broderick (2017)*

- Nel 2006 il governo finlandese ha dato il via a un progetto di accessibilità del sistema scolastico nazionale di grado superiore (progetto ESOK)
- ESOK era finalizzato ad assicurare pari opportunità, ambienti privi di barriere e accessibilità in materia di selezione degli studenti, esami di ingresso, valutazioni e studio, tenendo conto di tutti i bisogni individuali
- Persone con disabilità hanno collaborato a ESOK come esperti in gruppi di lavoro ed équipe che hanno elaborato linee guida e raccomandazioni per il progetto



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Buone pratiche: Italia

- Negli ultimi 30 anni l'Italia ha compiuto sforzi concertati per garantire l'inclusione nel sistema scolastico, raggiungendo uno dei più alti livelli di inclusione all'interno dell'UE

La Legge 517/1977 ha abolito dal sistema scolastico convenzionale le scuole e classi differenziate e per alunni con bisogni speciali



La Legge 104/1992 riafferma il diritto all'educazione inclusiva per tutte le persone con disabilità

La Legge 107/2015, "buona scuola", è stata approvata nel 2015 e sostiene ulteriori riforme



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Buone pratiche: Malta

Informazioni tratte da Waddington e Broderick (2016)

- "Educazione per tutti i bisogni speciali ed educazione inclusiva: Rapporto di audit esterno" elaborato nel 2014 per valutare l'efficacia delle azioni intraprese per garantire un'educazione inclusiva
- Il rapporto "raccomanda lo sviluppo di un piano decennale per l'istruzione basato su un'ampia consultazione delle parti interessate, al fine di garantire, a lungo termine, l'attuazione e la sostenibilità dei piani attuali in materia di educazione inclusiva"



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Buone pratiche: Spagna

Informazioni tratte da incluD-ed (2012) & Waddington e Broderick (2017)

- Progetto spagnolo "La tua istruzione non ha limiti: sviluppa il tuo futuro"
- Il progetto "mira a migliorare la consapevolezza dei problemi della disabilità e a promuovere la partecipazione delle persone con disabilità nelle università e nei posti di lavoro attraverso campagne di sensibilizzazione indirizzate a studenti della scuola secondaria dell'obbligo"
- L'obiettivo principale del progetto è aumentare in modo consistente il numero di studenti con disabilità nelle università spagnole



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Aree di miglioramento



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Disuguaglianze persistenti

(UNICEF, A regional study on education in Central and Eastern Europe and the Commonwealth of Independent States (2007))

- Uno studio regionale del 2007 sull'istruzione in Europa centrale e orientale ha individuato al di fuori del sistema scolastico ancora 2,4 milioni di "bambini mancanti" in età di scuola primaria e 12 milioni di ragazzi in età di scuola secondaria (Turchia, Federazione russa e Ucraina, aree rurali in Tagikistan, Turchia e Albania)
- Gruppi di minoranze etniche (inclusi i Rom) in condizioni di svantaggio educativo in parecchi paesi (Bulgaria, Ungheria, Romania, Serbia, Montenegro e Macedonia) => "sottorappresentati all'interno della popolazione scolastica e sovrarappresentati in istituti di assistenza residenziale e scuole speciali
- Disuguaglianze tra bambini con disabilità "evidenziate come problema rilevante", con "opportunità limitate di istruzione per bambini con disabilità al di fuori del quadro istituzionale in numerosi Paesi" (per esempio Bielorussia, Bulgaria, Moldova)



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Osservazioni conclusive del Comitato CRPD e altre posizioni critiche

Il Comitato CRPD ha sottolineato che il progresso verso l'educazione inclusiva in **Austria** sembra aver subito una "stagnazione" e che è stato compiuto uno "sforzo insufficiente" a sostenere un'educazione inclusiva dei bambini con disabilità

La relazione ombra 2010 dal Comitato ungherese per la disabilità ha fortemente criticato le possibilità di istruzione offerte agli studenti con disabilità in **Ungheria**

A **Cipro**, il Commissario per i diritti dell'infanzia ha affermato che la frammentazione dei servizi di sostegno per bambini con disabilità e per i loro genitori ha determinato un orientamento verso forme di educazione speciale

Informazioni tratte dal sito web OHCHR e Waddington e Broderick 2016)



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Osservazioni conclusive del Comitato CRPD e altre posizioni critiche

Il Comitato è preoccupato per la "mancanza di dati e indicatori per monitorare la qualità dell'istruzione e l'inclusione degli studenti con disabilità nelle scuole e classi del sistema scolastico convenzionale" in **Italia**

(Comitato CRPD, Osservazioni conclusive)

Centro interfederale per le pari opportunità (2014): L'alunno deve adattarsi "ai limiti impostigli dalla scuola" e "all'interno delle varie Comunità non esistono ancora una strategia ed una visione a lungo termine (incluse le dotazioni di bilancio) per un'educazione inclusiva"

Mediatore croato per le disabilità: La messa a disposizione di assistenti per gli studenti con disabilità "è un campo non regolamentato che sta creando barriere notevoli all'inclusione degli studenti con disabilità nel sistema scolastico convenzionale."

(Broderick e Waddington, 2016)



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Giurisprudenza/decisioni



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Giurisprudenza nazionale (Broderick e Waddington, 2016)

Nel 2009, l'**Alta Corte nazionale spagnola** ha deliberato che le leggi riguardanti la concessione di borse di studio devono essere soggette alla possibilità di fornire un ragionevole accomodamento e ha decretato la concessione di una borsa di studio rifiutata a un candidato (dopo aver applicato gli stessi criteri usati per gli studenti senza disabilità)

Audiencia Nacional spagnola, Ricorso 160/2007, 2 novembre 2009, 86

In Italia, la **Corte di Cassazione** si è pronunciata in merito al ricorso presentato dai genitori di un bambino con disabilità, che hanno impugnato la riduzione delle ore dell'insegnante di sostegno per il figlio. La Corte ha giudicato non valida la riduzione e affermato che il diritto all'istruzione è un diritto fondamentale delle persone con disabilità.

Corte di Cassazione, 18 novembre 2014 n. 25011



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Decisioni nazionali (Broderick e Waddington, 2016)

La Commissione per la parità di trattamento (oggi **Istituto olandese per i diritti umani**): Ricorso presentato da uno studente affetto da discalculia in merito alla mancanza di un accomodamento ragionevole nella scuola (che sosteneva il divieto per legge dell'uso di diagrammi matematici). La Commissione ha sottolineato che la scuola avrebbe dovuto fornire all'alunno un accomodamento ragionevole nonostante il divieto previsto dalle normative.

Decisioni emesse nel 2006 e 2008 dall'**Organismo cipriota per la parità**: è stata giudicata discriminatoria nei confronti dei bambini affetti da dislessia la pratica del Ministero dell'Istruzione di prevedere solo più tempo per gli esami, e indirettamente discriminatorie anche le due leggi nazionali che disciplinano lo svolgimento degli esami. L'Organismo per la parità ha richiesto la revisione delle due leggi al fine di prevedere accomodamenti aggiuntivi.



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Corte europea dei diritti dell'uomo: Cam contro Turchia

- La decisione CEDU in materia di parità per persone con disabilità relativa all'istruzione non dell'obbligo
- La Corte ha deciso all'unanimità che c'è stata una violazione dell'articolo 14, oltre che dell'articolo 2 del protocollo n. 1 CEDU (sul diritto all'istruzione), derivante dal rifiuto dell'Accademia musicale nazionale turca di accogliere la richiesta di iscrizione di una studentessa a causa del suo deficit visivo
- La Corte ha fatto riferimento all'importanza dell'educazione inclusiva e, in particolare, alla definizione di accomodamento ragionevole contenuta nell'articolo 2 CRPD
- La Corte ha deliberato che il concetto di discriminazione sulla base della disabilità si estende al rifiuto di fornire un accomodamento ragionevole per agevolare l'accesso di una persona con disabilità all'istruzione, in linea con la CRPD



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- Inclusion International “*The Implications of the Convention on the Rights of Persons with Disabilities (CRPD) for Education for All* (2013)



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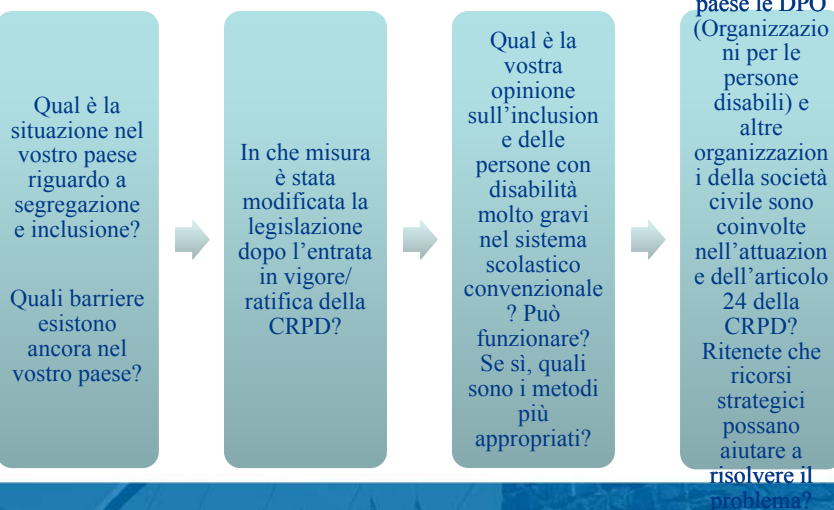
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Spunti di discussione



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GRAZIE PER L'ATTENZIONE!

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EU Employment Legislation and the CRPD: The Right to Equality and Non-Discrimination and Beyond

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1. Outline of Presentation

- The CRPD provisions on employment, equality and non-discrimination
- EU disability non-discrimination employment legislation and case law in light of the CRPD
- The relevance of the CRPD and EU labour law for disabled people working in sheltered employment

2. The CRPD provisions on employment, equality and non-discrimination

Concept of Disability – Article 1

- *Persons with disabilities include those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others.*

Non-Discrimination and Reasonable Accommodation – Articles 2 and 5 CRPD

- Definitions of key terms are found in Article 2 whilst Article 5 explicitly sets out obligations concerning equality and non-discrimination.

Article 2

- Article 2 defines discrimination on the basis of disability as:
- *any distinction, exclusion or restriction on the basis of disability which has the purpose or effect of impairing or nullifying the recognition, enjoyment or exercise, on an equal basis with others, of all human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field. It includes all forms of discrimination, including denial of reasonable accommodation.*

Article 2

Article 2 defines reasonable accommodation as:

necessary and appropriate modification and adjustments not imposing a disproportionate or undue burden, where needed in a particular case, to ensure to persons with disabilities the enjoyment or exercise on an equal basis with others of all human rights and fundamental freedoms.

Article 5 Equality and Non-Discrimination

- *(1) States Parties recognize that all persons are equal before and under the law and are entitled without any discrimination to the equal protection and equal benefit of the law.*
- *(2) States Parties shall prohibit all discrimination on the basis of disability and guarantee to persons with disabilities equal and effective legal protection against discrimination on all grounds.*
- *(3) In order to promote equality and eliminate discrimination, States Parties shall take all appropriate steps to ensure that reasonable accommodation is provided.*
- *(4) Specific measures which are necessary to accelerate or achieve de facto equality of persons with disabilities shall not be considered discrimination under the terms of the present Convention.*

Article 27 Work and Employment

- *States Parties recognize the right of persons with disabilities to work, on an equal basis with others; this includes the right to the opportunity to gain a living by work freely chosen or accepted in a labour market and work environment that is open, inclusive and accessible to persons with disabilities. States Parties shall safeguard and promote the realization of the right to work, including for those who acquire a disability during the course of employment, by taking appropriate steps, including through legislation, to, inter alia:*

Article 27 Work and Employment

- (a) *Prohibit discrimination on the basis of disability with regard to all matters concerning all forms of employment, including conditions of recruitment, hiring and employment, continuance of employment, career advancement and safe and healthy working conditions;*
- (b) *Protect the rights of persons with disabilities, on an equal basis with others, to just and favourable conditions of work, including equal opportunities and equal remuneration for work of equal value, safe and healthy working conditions, including protection from harassment, and the redress of grievances;*
-
- (i) *Ensure that reasonable accommodation is provided to persons with disabilities in the workplace; ...*

3. EU Employment Law

- Employment Equality Directive (2000/78)
- Explicitly prohibits discrimination in the field of employment and vocational training on the ground of disability, as well as several other grounds.
- Article 1 of the Directive states that the purpose of the Directive is to combat discrimination on the ground of disability, but does not provide any definition of disability or guidance on the concept.

Employment Equality Directive (2000/78)

- Directive requires that a Reasonable Accommodation is made for a person with a disability:
- *In order to guarantee compliance with the principle of equal treatment in relation to persons with disabilities, reasonable accommodation shall be provided. This means that employers shall take appropriate measures, where needed in a particular case, to enable a person with a disability to have access to, participate in, or advance in employment, or to provide training for such a person, unless such measures would impose a disproportionate burden on the employer. When this burden is, to a sufficient extent, remedied by existing measures as an element of disability policy in the Member State, it should not be considered disproportionate. (Article 5)*

Employment Equality Directive (2000/78)

- Recital 20:
- *Appropriate measures should be provided, i.e. effective and practical measures to adapt the workplace to the disability, for example adapting premises and equipment, patterns of working time, the distribution of tasks or the provision of training or integration resources.*
- Recital 21:
- *To determine whether the measures in question give rise to a disproportionate burden, account should be taken in particular of the financial and other costs entailed, the scale and financial resources of the organisation or undertaking and the possibility of obtaining public funding or any other assistance.*

The notion of reasonable accommodation

- Reasonable accommodation builds on the understanding that only applying a formal approach to non-discrimination will do little to help many people with disabilities.
- A formal approach to non-discrimination only requires that that people with disabilities are treated in the same way as people without disabilities – but such an approach fails to recognize that people with disabilities will not always be in the same position as people without disabilities.

The notion of reasonable accommodation

- The interaction between an individual's impairment and the physical or social environment can sometimes result in the inability to perform a particular function or activity in the conventional manner. The notion of reasonable accommodation was developed to address this situation.
- *'Instead of requiring disabled people to conform to existing norms, the aim is to develop a concept of equality which requires adaptation and change.'* (Sandra Fredman).
- This obligation to accommodate is not unlimited – and is subject to the requirement that the accommodation does not result in a disproportionate or undue burden.
- The obligation is individualized – requires a tailored accommodation to meet the needs of a particular person.

Characteristics of rea. accommodation

- What is the goal?
- *to ensure to persons with disabilities the enjoyment or exercise on an equal basis with others of all human rights and fundamental freedoms (CRPD) / guarantee compliance with the principle of equal treatment with regard to employment (Directive)*
- How is this to be achieved?
- *through necessary and appropriate modifications (= reasonable accommodations) where needed in a particular case*
- What is the limit of the duty?
- *No obligation where this would result in a disproportionate or undue burden on the duty bearer*

Interpreting the Employment Equality Directive in light of the CRPD

- The CRPD has had a clear impact on interpretation of the Employment Equality Directive in two respects:
 - Definition of disability used for the purposes of the Directive
 - Interpretation of Reasonable Accommodation
- In addition case law has addressed the permissibility of preferential treatment for some disabled workers compared to other disabled workers.

Definition of Disability

Case C-13/05 *Chacón Navas* (2006)

- The Court noted that the Directive is designed to combat employment discrimination and defined disability, in that context as, *'a limitation which results in particular from physical, mental or psychological impairments and which hinders the participation of the person concerned in professional life'*.
- This definition is based on individual model of disability – identifies the cause of the disability as a limitation which flows directly from an impairment.
- The CRPD approach is based on the social model of disability.

Joined Cases C-335 and C-337/11 *Ring and Skouboe Werge* (2013)

- The Court noted that the CRPD forms *'an integral part of the EU legal order'* and that secondary legislation, including the Employment Equality Directive, must be interpreted in a manner consistent with the CRPD as far as possible.
- *'disability must be understood as referring to a limitation which results in particular from 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 others'*.
- This understanding of disability is very clearly and explicitly based on the CRPD concept of disability.

Case C-363/12 Z v. A Government department and The Board of management of a community school (2014)

- The concept of disability within the meaning of the Directive *'presupposes that the limitation from which the person suffers, in interaction with various barriers, may hinder that person's full and effective participation in professional life on an equal basis with other workers'*.
- The reference point for the CRPD is hindered participation in society in general, and not limitation on ability to work – the approach of CJEU is more limited than the approach found in the CRPD.

Case C-354/13 Kaltoft (2014)

- Obesity amounts to a disability where it involves a limitation which results from an impairment which, in interaction with various barriers, hinders participation in professional life.

Case C-395/15 *Daouidi* (2016)

- A limitation can be regarded as long-term if its duration is uncertain, i.e. *'does not display a clearly defined prognosis as regards short-term progress'* or if it is likely to last a long time, i.e. *'incapacity is likely to be significantly prolonged'*. The national court must *'base its decision on all of the objective evidence before it, in particular on documents and certificates relating to that person's condition, established on the basis of the current medical and scientific knowledge and data'*.

Reasonable Accommodation Joined Cases C-335 and C-337/11 *Ring and Skouboe Werge* (2013)

- Both the preamble to the Directive and the CRPD *'envisage not only material but also organisational measures'*.
- *'it cannot be ruled out that a reduction in working hours may constitute one of the accommodation measures referred to in ... that directive'*.
- The concept of reasonable accommodation *'must be understood as referring to the elimination of various barriers that hinder the full and effective participation of persons with disabilities in professional life on an equal basis with other workers'*.

Preferential treatment for some disabled workers compared to other disabled workers

- Case C-406/15 *Milkova* (2017)
- The Employment Equality Directive (Article 7(2) which allows positive action in favour of persons with disabilities) must be read in light of the CRPD and the EU Charter of Fundamental Rights.

Examples of Other Provisions of EU Labour Law and the CRPD

- Working Time Directive (2003/88)
- Directive on Collective Redundancies (98/59)
- Directive on Transfer of Undertakings (2001/23)
- Health and Safety Directives (e.g. 89/391)
- Employee Consultation Directive (2002/14)
- In general these directives make no explicit mention of workers with disabilities (exception are some of the health and safety directives).
- Nevertheless, persons with disabilities should be able to benefit from these provisions on an equal basis to other workers.

4. The Relevance of the CRPD and EU Labour Law to Sheltered Employment

- Sheltered employment is employment which takes place in a segregated setting, with disabled workers removed from the mainstream labour market.
- Workers in sheltered employment are often unable to benefit from protection under labour law, e.g. minimum wage legislation, protection from discrimination, right to join a trade union, negotiate with employer, and take collective action, right to be consulted and receive information from employer, protection from unfair dismissal and redundancy payments, protection under health and safety legislation and right to paid leave and rest time during working week.

The Relevance of the CRPD and EU Labour Law to Sheltered Employment (2)

- Case C- 316/13 *Fenoll* (2015) – the CJEU had to decide whether a disabled person employed in sheltered employment in France was able to benefit from protection under EU labour law (Working Time Directive).
- Question: Was Mr. Fenoll a worker or not under EU law?
- *'any person who pursues real, genuine activities, to the exclusion of activities on such a small scale as to be regarded as purely marginal and ancillary, must be regarded as a "worker". The essential feature of an employment relationship is that for a certain period of time a person performs services for and under the direction of another person in return for which he receives remuneration'.*

The Relevance of the CRPD and EU Labour Law to Sheltered Employment (3)

- The activities of the rehabilitation centre (sheltered employment) were intended *'to ensure the personal fulfilment of a seriously disabled person by the enhancement of his capabilities and, as far as possible, to ensure that the activities entrusted to that person are of some economic benefit to the body concerned'*.
- The activities did have to be *'real and genuine'* economic activity.
- *'This is all the more true because those activities made it possible to give value to the productivity of severely disabled persons, however reduced it may be, while at the same time ensuring the social protection they are entitled to'*.

The Relevance of the CRPD and EU Labour Law to Sheltered Employment (4)

- Court held: A person who worked at a rehabilitation centre could be regarded as a worker for the purposes of EU law.
- Summary of CJEU's view of how to assess whether a person is a worker or not:
 - Activity must have some economic value – low value is enough
 - Activities must be performed under direction of another
 - Wage must be received – but can be below minimum wage
 - Productivity of individual and source of funding for wage are not relevant to assessment
 - Element of social protection and non-employment activities do



Legislazione UE sull'occupazione e CRPD: Il diritto a uguaglianza, non discriminazione e oltre

Lisa Waddington,
Presidente EDF in Diritto europeo
sulla disabilità



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1. Schema della presentazione

- Disposizioni CRPD in materia di occupazione, uguaglianza e non discriminazione
- Legislazione UE su occupazione e non discriminazione riguardo alla disabilità; giurisprudenza alla luce della CRPD
- Rilevanza della CRPD e del diritto UE sul lavoro per le persone disabili che hanno un "lavoro protetto"

2. Disposizioni CRPD in materia di occupazione, uguaglianza e non discriminazione

Concetto di disabilità – articolo 1

- *Per "persone con disabilità" si intendono coloro che presentano minorazioni fisiche, mentali, intellettive o sensoriali a lungo termine che, in interazione con barriere di diversa natura, possono ostacolare la piena ed effettiva partecipazione nella società su una base di uguaglianza con gli altri.*

Non discriminazione e accomodamento ragionevole – Articoli 2 e 5 CRPD

- Le definizioni di termini e espressioni principali sono riportate all'articolo 2; l'articolo 5 stabilisce espressamente gli obblighi in materia di uguaglianza e non discriminazione.

Articolo 2

- L'articolo 2 definisce la discriminazione fondata sulla disabilità come:
- *qualsivoglia distinzione, esclusione o restrizione sulla base della disabilità che abbia lo scopo o l'effetto di pregiudicare o annullare il riconoscimento, il godimento o l'esercizio, su base di uguaglianza con gli altri, di tutti i diritti umani e delle libertà fondamentali in campo politico, economico, sociale, culturale, civile o in qualsiasi altro campo. Essa include ogni forma di discriminazione, compreso il rifiuto di un accomodamento ragionevole.*

Articolo 2

L'articolo 2 definisce l'accomodamento ragionevole come:

le modifiche e gli adattamenti necessari ed appropriati che non impongano un carico sproporzionato o eccessivo, ove ve ne sia necessità in casi particolari, per assicurare alle persone con disabilità il godimento o l'esercizio, su base di uguaglianza con gli altri, di tutti i diritti umani e le libertà fondamentali.

Articolo 5 – Uguaglianza e non discriminazione

- (1) *Gli Stati contraenti riconoscono che tutte le persone sono uguali di fronte e secondo la legge e hanno diritto, senza alcuna discriminazione, a uguale protezione e uguale beneficio della legge.*
- (2) *Gli Stati contraenti vietano ogni forma di discriminazione fondata sulla disabilità e garantiscono alle persone con disabilità uguale ed effettiva protezione giuridica contro ogni discriminazione qualunque ne sia il motivo.*
- (3) *Al fine di promuovere l'uguaglianza ed eliminare le discriminazioni, gli Stati contraenti prenderanno tutti i provvedimenti appropriati per assicurare che siano forniti accomodamenti ragionevoli.*
- (4) *Le misure specifiche necessarie ad accelerare o conseguire l'uguaglianza de facto delle persone con disabilità non saranno considerate discriminatorie ai sensi della presente Convenzione.*

Articolo 27 – Lavoro e occupazione

- *Gli Stati contraenti riconoscono il diritto delle persone con disabilità al lavoro, su base di parità con gli altri; ciò include il diritto all'opportunità di mantenersi attraverso il lavoro che esse scelgono o accettano liberamente in un mercato del lavoro e in un ambiente lavorativo aperto, che favorisca l'inclusione e l'accessibilità alle persone con disabilità. Gli Stati contraenti devono garantire e favorire l'esercizio del diritto al lavoro, incluso per coloro che hanno acquisito una disabilità durante lo svolgimento della propria occupazione, intraprendendo azioni adeguate – anche attraverso misure legislative - in particolare al fine di:*

Articolo 27 – Lavoro e occupazione

- *(a) vietare la discriminazione fondata sulla disabilità con riguardo a tutte le questioni concernenti ogni forma di occupazione, incluse le condizioni di reclutamento, assunzione e impiego, mantenimento dell'impiego, avanzamento di carriera e condizioni di sicurezza e di salute sul lavoro;*
- *(b) tutelare i diritti delle persone con disabilità, su base di uguaglianza con gli altri, per condizioni lavorative giuste e favorevoli, comprese le pari opportunità e la parità di retribuzione per un lavoro di pari valore, la sicurezza e la salute sul lavoro, la protezione dalle molestie e le forme di risarcimento per i torti subiti;*
-
- *(i) assicurare che accomodamenti ragionevoli siano forniti alle persone con disabilità nei luoghi di lavoro; ...*

3. Diritto europeo sull'occupazione

- Direttiva sulla parità di trattamento in materia di occupazione (2000/78).
- Vieta espressamente, in materia di occupazione e formazione professionale, sia la discriminazione fondata sulla disabilità che basata su numerosi altri motivi.
- L'articolo 1 specifica che l'obiettivo della direttiva è la lotta alla discriminazione fondata sulla disabilità, ma senza fornire una definizione del termine o dare indicazioni su tale concetto.

Direttiva sulla parità di trattamento in materia di occupazione (2000/78)

- La direttiva prevede che venga realizzato un accomodamento ragionevole per una persona con disabilità,
- *Per garantire il rispetto del principio della parità di trattamento dei disabili, sono previste soluzioni ragionevoli. Ciò significa che il datore di lavoro prende i provvedimenti appropriati, in funzione delle esigenze delle situazioni concrete, per consentire ai disabili di accedere ad un lavoro, di svolgerlo o di avere una promozione o perché possano ricevere una formazione, a meno che tali provvedimenti richiedano da parte del datore di lavoro un onere finanziario sproporzionato. Tale soluzione non è sproporzionata allorché l'onere è compensato in modo sufficiente da misure esistenti nel quadro della politica dello Stato membro a favore dei disabili. (Articolo 5)*

Direttiva sulla parità di trattamento in materia di occupazione (2000/78)

- Considerando 20:
- *È opportuno prevedere misure appropriate, ossia misure efficaci e pratiche destinate a sistemare il luogo di lavoro in funzione dell'handicap, ad esempio sistemando i locali o adattando le attrezzature, i ritmi di lavoro, la ripartizione dei compiti o fornendo mezzi di formazione o di inquadramento.*
- Considerando 21:
- *Per determinare se le misure in questione danno luogo a oneri finanziari sproporzionati, è necessario tener conto in particolare dei costi finanziari o di altro tipo che esse comportano, delle dimensioni e delle risorse finanziarie dell'organizzazione o dell'impresa e della possibilità di ottenere*

Il concetto di accomodamento ragionevole

- Il concetto di “accomodamento ragionevole” si basa sul presupposto che un approccio solo formale di non discriminazione sarà di scarso aiuto per molte persone con disabilità.
- Un approccio formale di non discriminazione prevede solo che le persone con disabilità siano trattate nello stesso modo delle persone senza disabilità – ma un approccio di questo tipo non riconosce che le persone con disabilità non si trovano nelle stesse condizioni delle persone senza disabilità.

Il concetto di accomodamento ragionevole

- L'interazione fra la limitazione della persona e l'ambiente fisico o sociale può talvolta causare l'incapacità di svolgere, in modo convenzionale una particolare funzione o attività. Per affrontare questa situazione è stato sviluppato il concetto di “accomodamento ragionevole”.
- *“Anziché imporre alle persone disabili di conformarsi alle norme esistenti, occorre sviluppare un concetto di uguaglianza che imponga modifiche e adattamenti.”* (Sandra Fredman).
- L'obbligo di trovare un accomodamento non è illimitato: l'accomodamento ragionevole non deve rappresentare un onere sproporzionato o eccessivo.
- L'obbligo è individualizzato – prevede un accomodamento personalizzato per soddisfare le esigenze di una persona specifica.

Caratteristiche dell'accomodamento ragionevole

- Qual è l'obiettivo?
- *Garantire alle persone con disabilità il godimento o l'esercizio, su una base di uguaglianza con gli altri, di tutti i diritti umani e le libertà fondamentali (CRPD)/ garantire la conformità al principio della parità di trattamento in materia di occupazione (direttiva)*
- Com'è possibile realizzarlo?
- *Attraverso modifiche necessarie e appropriate (= accomodamento ragionevole), ove ve ne sia necessità in casi particolari*
- Qual è il limite dell'obbligo?
- *Nessun obbligo qualora quest'ultimo rappresenti un onere sproporzionato o eccessivo a carico dell'obbligato*

Interpretare la direttiva sulla parità di trattamento in materia di occupazione alla luce della CRPD

- La CRPD produce un impatto ben preciso, sotto due aspetti, sull'interpretazione della direttiva sulla parità di trattamento in materia di occupazione
- Definizione di disabilità, utilizzata per le finalità della direttiva
- Interpretazione del concetto di accomodamento ragionevole
- Inoltre, la giurisprudenza ha affrontato la questione dell'ammissibilità di un trattamento preferenziale per alcuni lavoratori disabili rispetto ad altri lavoratori disabili.

Definizione di disabilità

Causa C-13/05 *Chacón Navas* (2006)

- La Corte ha rilevato come la Direttiva sia stata concepita per combattere la discriminazione nell'occupazione e ha definito la disabilità, in tale contesto, *"come un limite che deriva, in particolare, da minorazioni fisiche, mentali o psichiche e che ostacola la partecipazione della persona considerata alla vita professionale"*.
- Questa definizione si basa su un modello individuale di disabilità: individua la causa della disabilità come limite direttamente risultante da una minorazione.
- L'approccio CRPD si basa sul modello sociale di disabilità.

Cause congiunte C-335 e C-337/11 *Ring e Skouboe Werge* (2013)

- La Corte ha osservato come la convenzione CRPD formi *"parte integrante dell'ordinamento giuridico dell'Unione"* e che il diritto derivato, compresa la direttiva sulla parità di trattamento in materia di occupazione, deve essere interpretato in maniera per quanto possibile conforme a detta convenzione.
- *"la nozione di "disabilità" deve essere intesa nel senso che si riferisce ad una limitazione, risultante in particolare da minorazioni fisiche, mentali o psichiche, che, in interazione con barriere di diversa natura, può ostacolare la piena ed effettiva partecipazione della persona interessata alla vita professionale su base di uguaglianza con gli altri lavoratori"*.
- Questa definizione di disabilità si basa in modo chiaro ed esplicito sul concetto CRPD di disabilità.

Causa C-363/12 Z contro A Government department and The Board of management of a community school (2014)

- Il concetto di disabilità ai sensi della direttiva *"presuppone che la limitazione di cui soffre la persona, in interazione con barriere di diversa natura, sia in grado di ostacolare la sua piena ed effettiva partecipazione alla vita professionale su base di uguaglianza con gli altri lavoratori"*.
- Il punto di riferimento per la CRPD è la partecipazione ostacolata nella società in generale, e non la limitazione della capacità di lavorare; l'approccio della CGUE è più limitato dell'approccio che troviamo nella CRPD.

Causa C-354/13 Kaltoft (2014)

- L'obesità equivale a una disabilità laddove comporta una limitazione risultante da una minorazione che, in interazione con varie barriere, ostacola la partecipazione alla vita professionale.

Causa C-395/15 *Daouidi* (2016)

- Una limitazione può essere considerata di lungo termine se la durata è incerta (*"non presenta una prognosi chiaramente definita relativa a progressi a breve termine"*), oppure che ha buone probabilità di durare a lungo (*"l'incapacità ha buone probabilità di essere notevolmente prolungata"*). Il tribunale nazionale deve *"basare la propria decisione su tutte le prove oggettive precedenti, in particolare su documenti e certificati riguardanti la condizione dell'interessato, stabilita sulla base di dati e conoscenze mediche e scientifiche attuali"*.

Accomodamento ragionevole Cause congiunte C-335 e C-337/11 *Ring* e *Skouboe Werge* (2013)

- Sia il preambolo alla direttiva che la CRPD *"ipotizzano non solo misura materiali ma anche organizzative"*.
- *"Non può essere escluso che una riduzione dell'orario di lavoro possa costituire una delle misure di accomodamento cui viene fatto riferimento (...) nella direttiva"*.
- Il concetto di accomodamento ragionevole *"deve essere inteso nel senso che si riferisce all'eliminazione delle barriere di diversa natura che ostacolano la piena ed effettiva partecipazione delle persone disabili alla vita professionale su base di uguaglianza con gli altri lavoratori"*

Trattamento preferenziale per alcuni lavoratori disabili rispetto ad altri lavoratori disabili

- Causa C-406/15 *Milkova* (2017)
- La direttiva sulla parità di trattamento in materia di occupazione (articolo 7 (2) che permette di attuare azioni positive e misure specifiche a favore di persone con disabilità) deve essere letta alla luce della CRPD e della Carta UE dei diritti fondamentali.

Esempi di altre disposizioni del diritto UE in materia di lavoro e CRPD

- Direttiva sull'orario di lavoro (2003/88)
- Direttiva in materia di licenziamenti collettivi (98/59)
- Direttiva sui trasferimenti di imprese (2001/23)
- Direttive in materia di salute e sicurezza (per es. 89/391)
- Direttiva sulla consultazione dei lavoratori (2002/14)
- In generale, tali direttive non operano riferimenti specifici ai lavoratori con disabilità (ad eccezione di alcune direttive in materia di salute e sicurezza).
- Tuttavia, le persone con disabilità dovrebbero essere in grado di beneficiare delle relative disposizioni su base di uguaglianza con gli altri lavoratori.

4. Rilevanza della CRPD e del diritto UE riguardo al "lavoro protetto"

- Il lavoro protetto è l'occupazione che si svolge in un contesto differenziato, con i lavoratori disabili che sono tolti dal tradizionale mercato del lavoro.
- I lavoratori che rientrano nell'ambito del lavoro protetto non sono spesso in grado di beneficiare delle tutele previste dal diritto del lavoro: normativa sulla retribuzione minima; protezione contro la discriminazione; diritto di aderire a un sindacato; negoziazione con il datore di lavoro; adozione di azioni collettive; diritto di essere consultati e di essere informati dal datore di lavoro; tutela contro i licenziamenti irregolari; indennità di licenziamento; tutela prevista dalla normativa in materia di salute e sicurezza; e diritto alle ferie retribuite e ai periodi di riposo all'interno della settimana lavorativa.

Rilevanza della CRPD e del diritto UE riguardo al "lavoro protetto" (2)

- Causa C- 316/13 *Fenoll* (2015) – La CGUE ha dovuto decidere se una persona disabile occupata nel quadro di un lavoro protetto in Francia potesse fruire della protezione prevista dal diritto UE del lavoro (direttiva sull'orario di lavoro).
- Domanda: Il sig. Fenoll è un lavoratore o no ai sensi del diritto dell'UE?
- *"Deve essere qualificata come "lavoratore" una persona che svolga attività reali ed effettive, restando escluse quelle attività talmente ridotte da poter essere definite puramente marginali e accessorie. La caratteristica del rapporto di lavoro è la circostanza che una persona fornisca, per un certo periodo, a favore di un'altra e sotto la direzione di quest'ultima, prestazioni in contropartita delle quali riceva una retribuzione".*

Rilevanza della CRPD e del diritto UE riguardo al "lavoro protetto" (3)

- Le attività del centro di aiuto attraverso il lavoro (lavoro protetto) erano destinate *"garantire sia lo sviluppo personale di una persona affetta da handicap gravi attraverso la valorizzazione delle sue capacità sia, per quanto possibile, che le prestazioni affidate a tale persona presentino tendenzialmente una certa utilità economica per l'ente medesimo"*.
- Le attività dovevano essere attività economiche *"reali ed effettive"*.
- *"Tanto più che tali attività consentono di valorizzare la produttività, per quanto ridotta, delle persone affette da handicap gravi e, al contempo, di assicurare loro la dovuta protezione sociale"*.

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Rilevanza della CRPD e del diritto UE riguardo al "lavoro protetto" (4)

- Sentenza della Corte Una persona che lavorava in un centro di aiuto attraverso il lavoro poteva essere qualificata come "lavoratore" ai fini del diritto UE
- Sintesi su come la CGUE ragiona per valutare se la persona è un lavoratore oppure no
- L'attività deve avere un qualche valore economico – un valore esiguo non basta
- Le attività devono essere svolte sotto la direzione di un'altra persona
- Deve essere corrisposta una retribuzione – ma può essere inferiore alla retribuzione minima
- La produttività del soggetto e la fonte di finanziamento per la retribuzione non sono rilevanti nella valutazione
- L'elemento della protezione sociale e le attività non legate all'occupazione non implicano che la persona non possa essere un lavoratore

Facoltà di Giurisprudenza

Legal Capacity under Article 12 UNCRPD

**Seminar for National Civil Servants and NGO Staff, Trier,
29-30 May 2017**

Dr. Andrea Broderick

Assistant Professor, Maastricht University



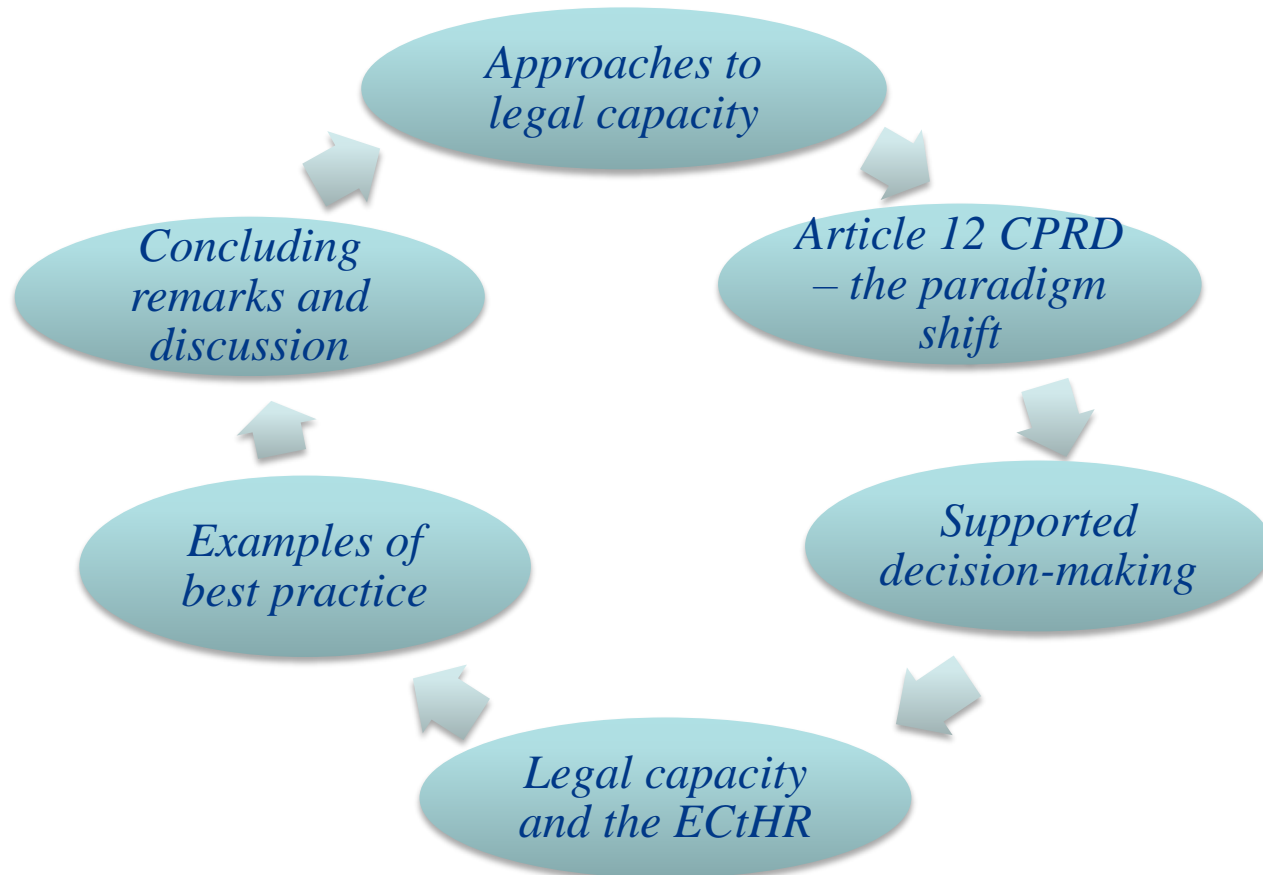
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“Imagine if someone else was making decisions for you. They could decide to take you away, lock you up, not listen to you, give you medication, block you from doing your work and living your life with your body and mind the way they are.

WOULD YOU WANT THIS TO HAPPEN TO YOU? Wouldn't you have the feeling that you have lost your dignity and want it back?”

Citation from the International Disability Caucus' advocacy paper during the Ad Hoc Committee on a Comprehensive and Integral International Convention on and Promotion of the Rights and Dignity of Persons with Disabilities, Jan. 31, 2006.

Structure of Presentation



Legal Capacity: Various Approaches

What is Legal Capacity?

CDLP Report (2017) and FRA report (2013)

- Legal capacity: The capacity to be both a holder of rights (legal standing) and an actor under the law (legal agency)
- Mental Capacity: Decision-making ability, which depends on environmental and social factors
- All persons with disabilities can be affected by denial of legal capacity. However, persons with psychosocial or intellectual/cognitive disabilities are disproportionately affected by deprivation of legal capacity

Status Approach

- Rests on a binary conceptualisation of legal capacity (*Quinn, 2010*)
- Being labelled “disabled” (in particular, having an intellectual disability) translates to an assumption under the law that a person lacks legal capacity.
- Authority for decision-making is given to another person (substituted decision-making; plenary or partial guardianship)

Outcome Approach

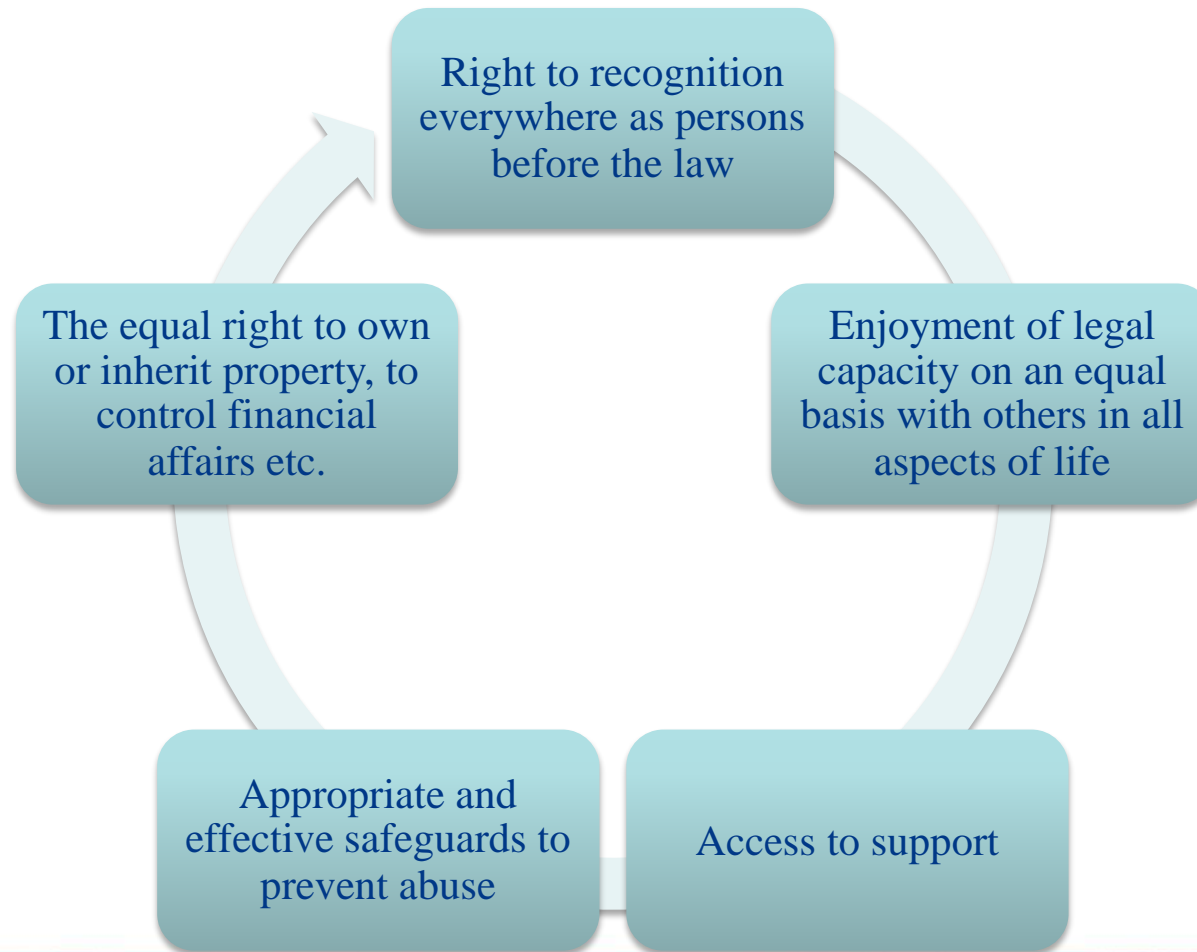
- Based on the maxim that in circumstances where a person makes a bad decision or a number of bad decisions, that person should lose the right to continue making decisions

Functional Approach

- Entails a decision on a person's legal capacity on an issue-specific basis
- The functional approach presumes that a person has capacity unless the opposite is proven
- The 'modern' functional approach involves the provision of supports in order for people to exercise decision-making
- Key values of equality, dignity and autonomy

Legal Capacity under Article 12 UNCRPD

Article 12 CRPD: Equal Recognition before the Law



Article 12 UNCRPD: General Comment 1

Article 12(1):

Every person should be respected as a person possessing legal personality, a prerequisite for the recognition of a person's legal capacity.

Article 12(2):

Legal capacity to be a holder of rights entitles the person to full protection of his or her rights by the legal system.

Legal capacity to act under the law recognizes the person as an agent who can perform acts with legal effect.

Article 12(3):

Support in the exercise of legal capacity must respect the rights, will and preferences of persons with disabilities and should never amount to substitute decision-making.

Article 12 UNCRPD: General Comment 1

Article 12(3):

Informal and formal support arrangements are covered, of varying types and intensity.

Article 12(4):

Safeguards must ensure respect of the will and preferences of the disabled individual and must provide protection from abuse on an equal basis with others.

Article 12(5):

Access to finance and property has traditionally been denied to persons with disabilities based on the medical model of disability. This approach must be replaced with support to exercise legal capacity, in accordance with Article 12(3).

Article 12 UNCRPD: The Paradigm Shift

CRPD: The Paradigm Shift

Social and Human Rights Model:

Moving away from a “deficits” paternalistic approach towards increasing individuals’ capabilities

Article 12 CRPD

rejects the ‘status’ and ‘outcome-based’ approaches to legal capacity

The focus of the functional approach:

is on the provision of supports (often not resource-intensive) enabling persons to exercise legal capacity

CRPD: The Paradigm Shift

Move from substitute to supported decision-making

Substitute decision making: A mechanism by which an individual's ability to exercise legal agency with regard to certain or all decisions is removed

Substitute decision-making is based on an objective "best interests" test, instead of the person's own will and preferences

Supported Decision-Making

Supported Decision Making: GC No. 1

- Reduction of plenary guardianship laws and reduction, or elimination if possible, of all substitute decision-making systems
- Focus on the ‘will and preferences’ of the individual as the determining factor
- Trusted support persons or other forms of support, such as peer support, advocacy (self-advocacy support), or assistance with communication
- Measures relating to universal design and accessibility - information in easy-to-read formats in financial institutions
- Various non-conventional methods of communication, such as non-verbal forms of communication to express their will and preferences

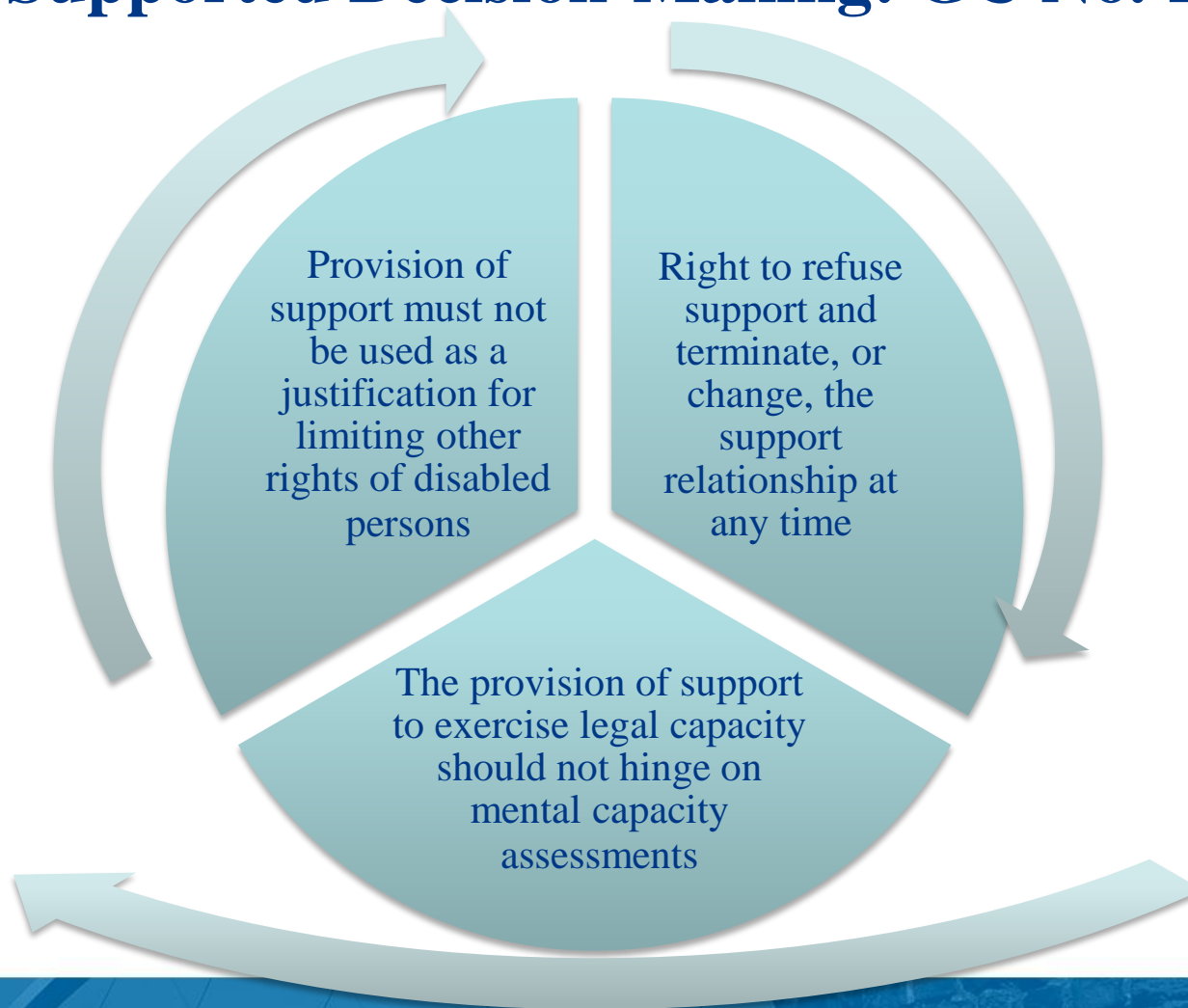
Supported Decision-Making: GC No. 1



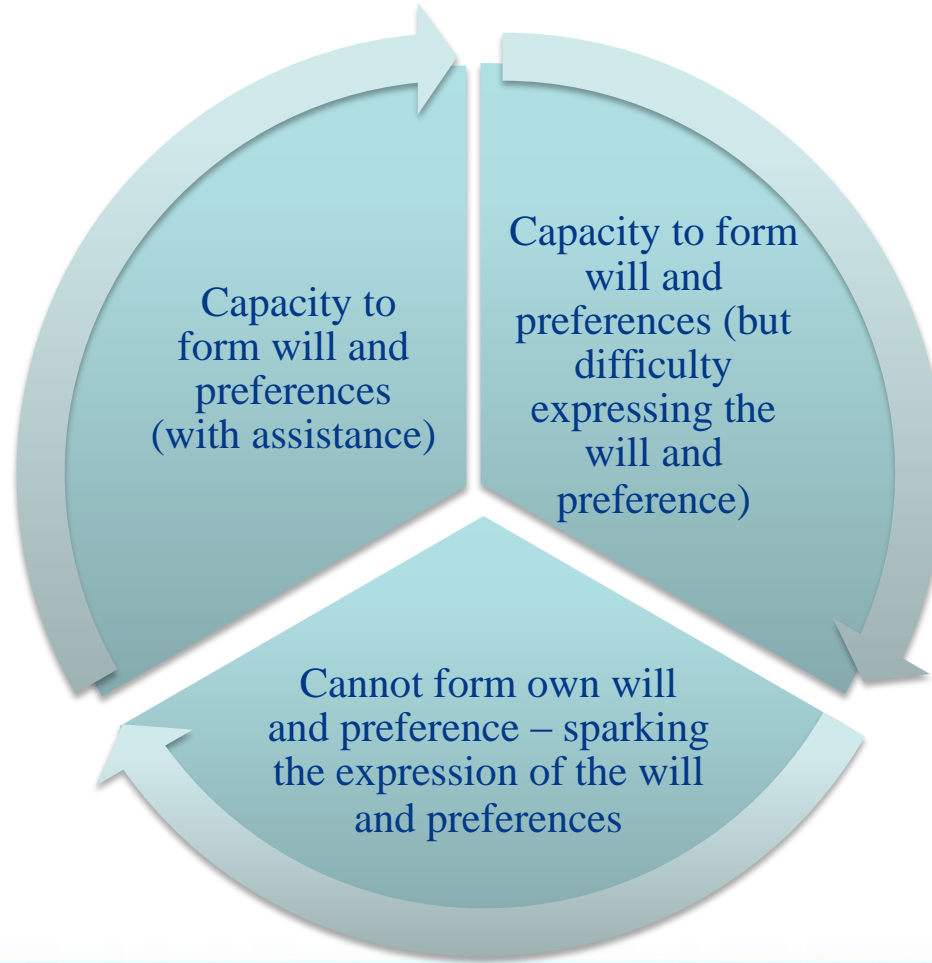
Supported Decision-Making: GC No. 1



Supported Decision-Making: GC No. 1



Will and Preferences: 3 possibilities

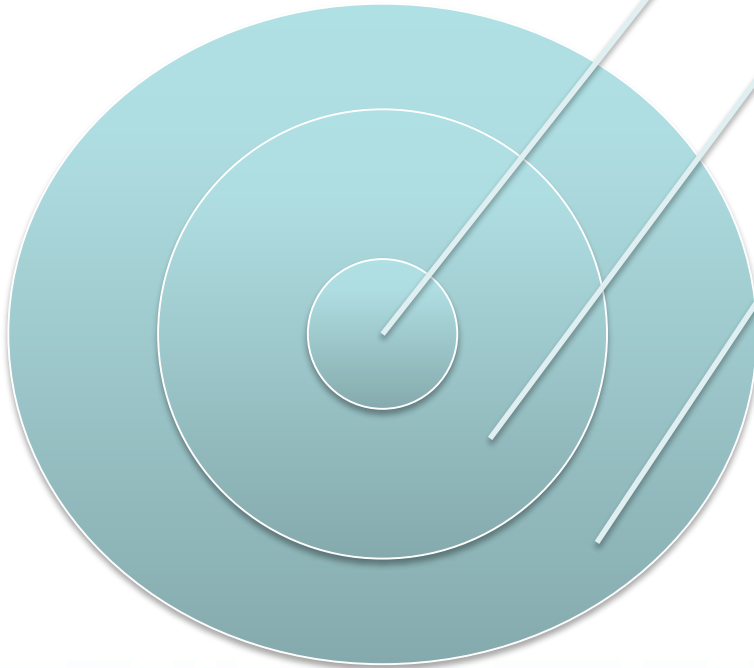


Hard Cases

Recognition of hard cases
(*Kerlake and Flynn, 2016*)

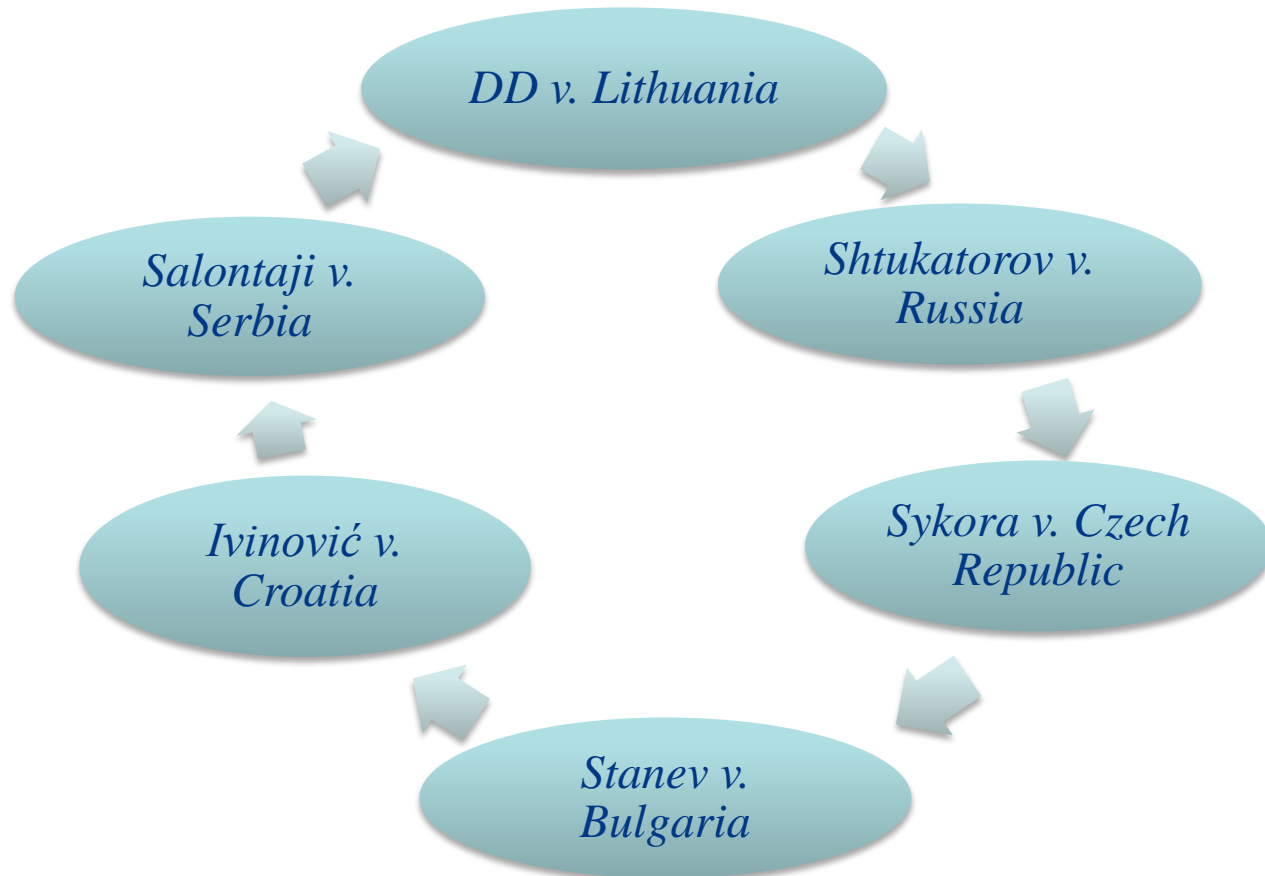
Where respecting the will and preferences would result in serious harm

Where an individual's will and preferences are conflicting – the 'best interpretation' principle



*Legal Capacity Decisions of the European
Court of Human Rights*

ECtHR Legal Capacity Decisions



Examples of Good Practices

Examples of Best Practice



British Columbia



Sweden

Case Study I: British Columbia

- British Columbia's *Representation Agreement Act 1996* is an example of best practice in this area
- It facilitates individuals to decide in advance on issues
- Presumption of capacity in respect of persons with intellectual disabilities and mental illness
- No court involvement - nomination of a person to make decisions in different aspects of a person's life

Case Study I: British Columbia

- Section 8 of the Act provides for a test of incapability, taking into account the following factors:
 - i. Whether the adult communicates a desire to have a representative;
 - ii. Whether the adult demonstrates choices and preferences and can express feelings of approval or disapproval of others;
 - iii. Whether the adult is aware that making the representation agreement or changing, or revoking, any of the provisions means that the representative may make, or stop making, decisions or choices that affect the adult;
 - iv. Whether the adult has a relationship with the representative that is characterised by trust

Case Study II: Swedish ‘Personligt Ombud’

(FRA report, 2013)

- The PO system began as a ‘pilot programme’ seeking to deal with the previous system’s failures and to rectify ‘the inability of patients’ to access their rights. It now operates as a nationwide system
- The PO acts on behalf of person with a mental health problem, in other words, only upon the request of an individual, and therefore generally develops a ‘close and trusting relationship’ with him or her
- The PO is a professional (often from a social work or legal background) who works for the individual on the basis of his/her ‘will and preferences’

Case Study II: Swedish ‘Personligt Ombud’

(FRA report, 2013)

- The PO and client together decide upon the type of support to be provided
- This system falls within the supported decision-making model, and is adapted to individuals’ needs
- No assessment of capacity before support is provided
- The ombudsman has no links with medical professionals, social services or any other authority
- The system ‘enhances individuals’ autonomy and reduces the level of in-patient hospital stays’

Pilot Projects on Supported Decision-Making

(Information taken from CDLP, Study on Equal Recognition before the Law, 2017)

Czech Republic: The Czech NGO QUIP and Inclusion Czech Republic has conducted a pilot project on supported decision-making - “Black and White” (2012-2017).

Bulgaria: Two pilot projects established as part of the “Next Step Program”, to assist in implementation of models of supported decision-making in Bulgaria

Strategic Litigation: Georgia

(Information taken from CDLP, Study on Equal Recognition before the Law, 2017)

The Coalition for Independent Living, a disability NGO, has established two legal clinics, which have engaged in several strategic litigation cases

One such case is against a large bank, which is not accepting signatures from disabled individuals and is instead requesting evidence of powers of attorney from support persons or representatives

The clinic has also been involved in a case where an individual who is currently under guardianship is seeking to have his legal capacity restored

Concluding Remarks

The CRPD is a driver of real law reform and policy change:

States Parties must ‘abolish denials of legal capacity that are discriminatory on the basis of disability in purpose or effect’

Obligation to replace substitute decision-making regimes by supported decision-making requires

Best interests’ must be replaced with the ‘will and preferences’ of the individual

Correct balance between protection and autonomy: Role of the court

Some of these conclusions are taken from CRPD Committee, General Comment No.1

Concluding Remarks

Closely ‘consult with and actively involve persons with disabilities, through representative organisations,’ in legislation, policies and other decision-making processes giving effect to Article 12

Effective mechanisms for formal and informal substitute decision-making

Opportunities to build ‘social networks’ and work; choices for residence in the community; and inclusion in education

Research into best practices respecting the legal capacity of persons with disabilities and supports

Some of these conclusions are taken from CRPD Committee, General Comment No.1

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- Nidus Personal Planning Resource Centre and Registry *Experiences of adults living with Fetal Alcohol Syndrome Spectrum Disorder and their personal supporters in making and using a Representation Agreement* (2009)
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- Engman, T., Manning, F. and Ekecrantz, L. S. A New Profession is Born – Personligt ombud, PO, Socialstyrelsen, Fhebe Hjälms (2008)

European Union funded projects on legal capacity and supported decision making

- The Choices project, funded by the European Union, provides a ‘platform for supported decision-making.
- The EU PERSON project seeks to increase the competencies of Balkan Civil Society Organisations (CSOs) at the regional and national levels in order to help them to strategically advocate and monitor legal reforms affecting persons with psycho-social and intellectual disabilities

Discussion Points

Does your country use a supported decision-making model and, if so, does it work well?



Does your country retain partial guardianship, alongside a model of supported decision-making?



What is your opinion on the notion of 'will and preferences' and how can it be safely implemented?



Have NGOs/DPOs participated in strategic litigation or other efforts related to legal capacity issues?

THANK YOU FOR YOUR ATTENTION

Contact: andrea.broderick@maastrichtuniversity.nl



La capacità giuridica ai sensi dell'articolo 12 UNCRPD

**Seminario per funzionari nazionali e membri delle ONG,
Treviri, 29-30 maggio 2017**
Dr. Andrea Broderick

Professore associato, Università di Maastricht



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“Immaginate se qualcuno prendesse decisioni per voi. Potrebbe decidere di portarvi via, rinchiudervi, non ascoltarvi, somministrarvi medicine, impedirvi di fare il vostro lavoro e di vivere la vostra vita nelle vostre condizioni fisiche e mentali.

VORRESTE CHE TUTTO CIÒ VI ACCADESSE? Non avreste la sensazione di aver perso la dignità? Non vorreste riaverla indietro?”

Citazione tratta dal documento di sostegno del Comitato internazionale per la disabilità, durante il Comitato speciale sulla Convenzione internazionale globale e integrata per la promozione e la tutela dei diritti delle persone con disabilità, 31 gen. 2006.

Struttura della presentazione



Capacità giuridica: vari approcci

Che cos'è la capacità giuridica?

**Relazione CDLP (Centro per le leggi e le politiche sulla disabilità) - 2017 e
Relazione FRA (Agenzia per i diritti fondamentali) - (2013)**

- Capacità giuridica: la capacità di essere titolare di diritti (stato giuridico) e di agire ai sensi della legge (rappresentanza giuridica)
- Capacità mentale: capacità decisionale, che dipende da fattori ambientali e sociali
- Tutte le persone con disabilità possono subire la privazione della capacità giuridica. Tuttavia, le persone con disabilità psicosociali o intellettive/cognitive sono colpite dalla privazione della capacità giuridica in misura sproporzionata

Approccio basato sullo stato giuridico

- Poggia su un concetto binario di capacità giuridica (*Quinn, 2010*)
- Essere etichettato come “disabile” (in particolare, nel caso di disabilità intellettiva) si traduce nell’ipotesi, in base alla legge, che una persona sia priva di capacità giuridica.
- L’autorità decisionale viene conferita a un’altra persona (processo decisionale sostitutivo; tutela totale o parziale)

Approccio basato sulle conseguenze giuridiche

- Si basa sul precetto che, laddove una persona prenda una o più decisioni sbagliate, essa debba perdere il diritto di continuare a prendere decisioni

Approccio funzionale

- Comporta una decisione sulla capacità giuridica di una persona ogni volta che si presenta un problema specifico
- L'approccio funzionale presuppone che una persona abbia capacità fino a prova contraria
- L'approccio funzionale “moderno” implica offrire misure di supporto che consentano alle persone di esercitare la propria capacità decisionale
- Valori chiave di uguaglianza, dignità e autonomia

Capacità giuridica ai sensi dell'articolo 12
UNCRPD

Articolo 12 CRPD: uguale riconoscimento di fronte alla legge



Articolo 12 UNCRPD: Commento generale n. 1

Articolo 12 (1)

Ogni persona deve essere rispettata in quanto persona dotata di personalità giuridica, condizione essenziale per il riconoscimento della capacità giuridica di una persona.

Articolo 12 (2)

La capacità giuridica di essere titolare di diritti conferisce alla persona il diritto alla piena tutela dei propri diritti da parte del sistema giuridico.

La capacità di agire secondo la legge riconosce alla persona la possibilità di compiere atti che abbiano effetti giuridici.

Articolo 12 (3)

Il sostegno alla capacità giuridica deve rispettare i diritti, la volontà e le preferenze delle persone disabili e non deve mai equivalere a un processo decisionale sostitutivo.

Articolo 12 UNCRPD: Commento generale n. 1

Articolo 12 (3)

Sono previste misure di sostegno, informali e formali, di vario tipo ed entità.

Articolo 12 (4)

Le misure di salvaguardia devono garantire il rispetto della volontà e delle preferenze delle persone con disabilità e devono tutelarle dagli abusi, su una base di eguaglianza con le alte persone.

Articolo 12 (5)

L'accesso ai finanziamenti e alla proprietà è stato tradizionalmente negato alle persone con disabilità, sulla base del modello medico di disabilità. Questo approccio deve essere sostituito con il sostegno all'esercizio della capacità giuridica in conformità all'articolo 12 (3).

*Articolo 12 UNCRPD: il cambiamento
paradigmatico*

CRPD: il cambiamento paradigmatico

Il modello sociale ed il modello basato sui diritti umani: passare da un approccio paternalistico basato sul “deficit” allo sviluppo delle capacità dell’individuo

L'articolo 12 CRPD respinge gli approcci alla capacità giuridica basati sullo “stato giuridico” e sulle “conseguenze giuridiche”

L’attenzione dell’approccio funzionale: è incentrata sul fornire misure di sostegno (spesso non ad alto consumo di risorse) che consentano alle persone di esercitare la loro capacità giuridica

CRPD: il cambiamento paradigmatico

Processo decisionale

**Passare dal
sostituire nel
processo decisionale
al sostenere nel
processo decisionale**

tutte le decisioni

Il processo

persona

Sostegno al processo decisionale

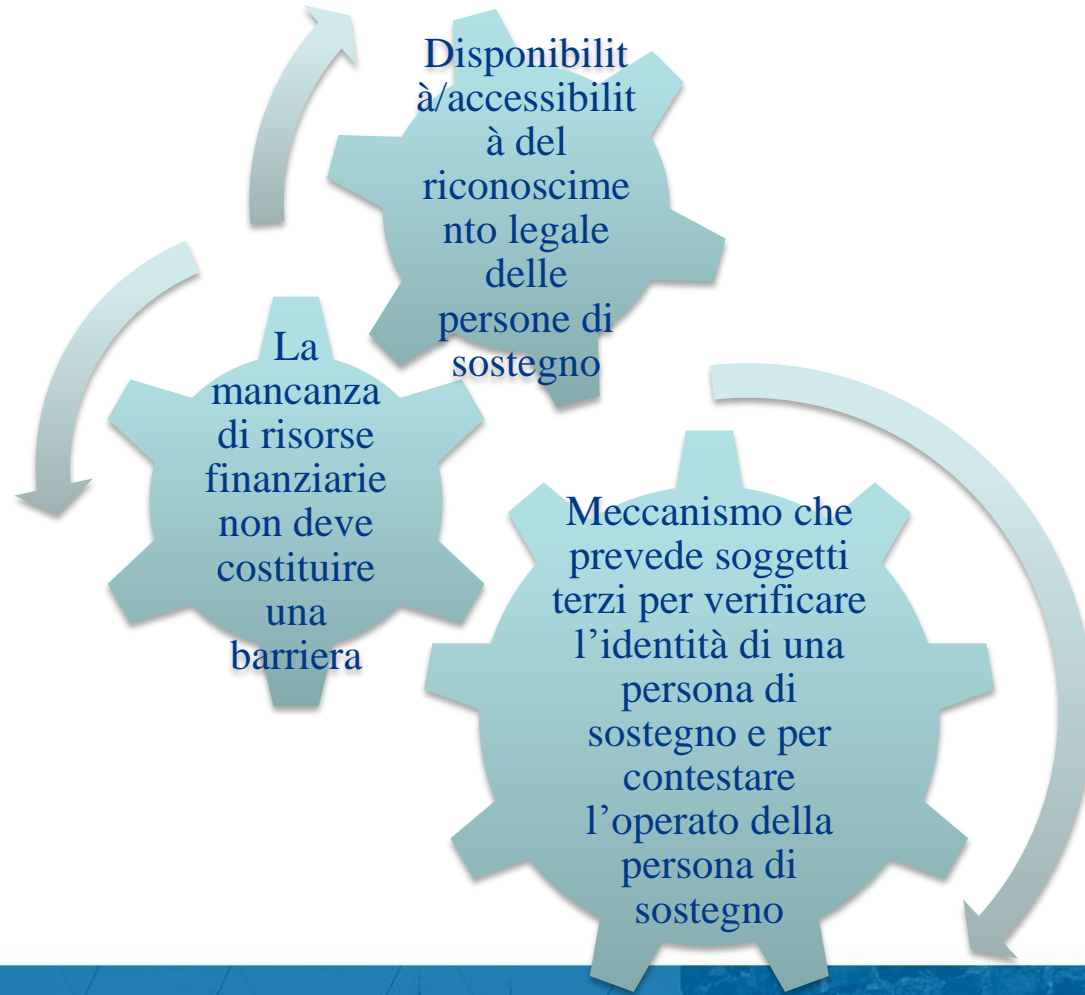
Sostegno al processo decisionale: CG n. 1

- Riduzione delle leggi sulla tutela totale e riduzione o, se possibile, eliminazione di tutti i processi decisionali sostitutivi
- Attenzione incentrata su “volontà e preferenze” della persona come fattori determinanti
- Persone fidate o altre forme di supporto, quali sostegno tra pari, advocacy (sostegno al self-advocacy) o assistenza alla comunicazione
- Misure relative ad accessibilità e progettazione universale – informazioni presso gli istituti finanziari in formati di facile lettura
- Modalità di comunicazione non convenzionali di diverso tipo, come forme di comunicazione non verbale per esprimere volontà e preferenze

Sostegno al processo decisionale: CG n. 1



Sostegno al processo decisionale: CG n. 1



Sostegno al processo decisionale: CG n. 1

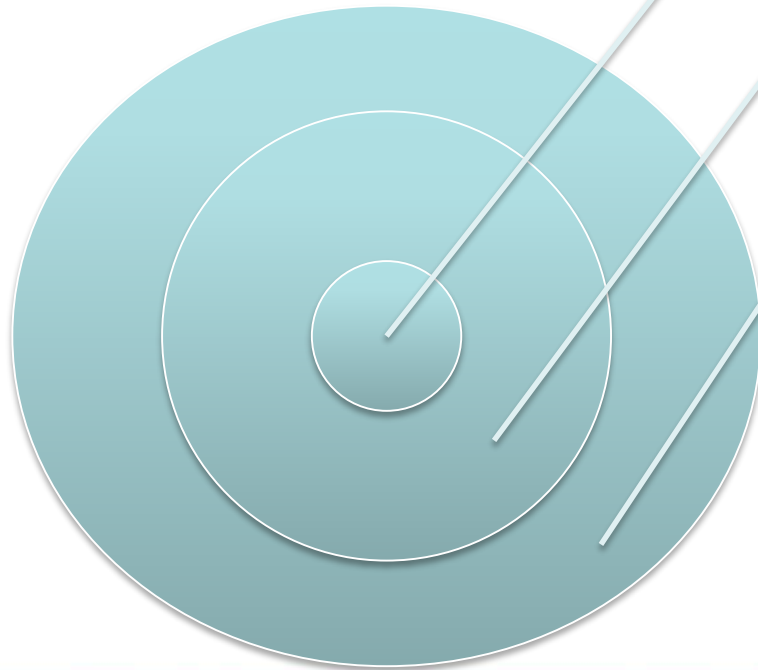


Volontà e preferenze: 3 possibilità



Casi difficili

Riconoscimento
di casi difficili
(*Kerlake e
Flynn, 2016*)



Quando
rispettare la
volontà e le
preferenze
comporta un
grave danno
Quando la
volontà e le
preferenze di una
persona sono
contrastanti - si
applica il
principio della
“migliore
interpretazione”

*Decisioni della Corte europea dei diritti
dell'uomo in materia di capacità giuridica*

Decisioni CEDU in materia di capacità giuridica



Esempi di buone pratiche

Esempi di migliori pratiche



Columbia
Britannica



Svezia

Caso di studio I: Columbia Britannica

- La Legge sull'accordo di rappresentanza del 1996 della Columbia britannica è un esempio di buone pratiche in questo settore
- Favorisce la capacità di prendere decisioni anticipatamente
- Prevede la presunzione di capacità per le persone con disabilità intellettiva e affette da malattie mentali
- Non prevede il coinvolgimento del tribunale – viene nominata una persona che possa prendere decisioni sui diversi aspetti della vita di una persona

Caso di studio I: Columbia Britannica

- La sezione 8 della Legge prevede una valutazione dell'incapacità, che tenga conto dei seguenti fattori.
 - i. Se l'adulto comunica il desiderio di avere un rappresentante
 - ii. Se l'adulto manifesta scelte e preferenze ed è in grado di esprimere approvazione o disapprovazione nei confronti degli altri
 - iii. Se l'adulto è consapevole del fatto che l'accordo di rappresentanza o qualunque modifica o annullamento delle sue disposizioni comportano che il rappresentante possa adottare o smettere di adottare decisioni o scelte che abbiano effetti sull'adulto
 - iv. Se l'adulto ha instaurato con il rappresentante un rapporto di fiducia

Caso di studio II: "Personligt Ombud" svedese

(relazione FRA, 2013)

- Il sistema PO è stato avviato come “programma pilota” per affrontare le carenze del sistema precedente e per correggere “l’incapacità dei pazienti” di avere accesso ai propri diritti. Attualmente funziona a livello nazionale
- Il PO agisce per conto delle persone con problemi di salute mentale, in altre parole, solo su richiesta di un singolo con il quale, quindi, instaura generalmente un “rapporto stretto e di fiducia”
- Il PO è un professionista (spesso formatosi nel settore dell’assistenza sociale o in campo giuridico) che lavora per una persona sulla base delle sue “volontà e preferenze”

Caso di studio II: "Personligt Ombud" svedese

(relazione FRA, 2013)

- PO e cliente decidono insieme il tipo di sostegno necessario
- Questo sistema rientra nel modello del sostegno al processo decisionale e viene adattato ai bisogni dei singoli
- Non si effettua alcuna valutazione della capacità prima di fornire il sostegno richiesto
- L'ombudsman ("difensore civico") non ha alcun legame con professionisti del settore medico, servizi sociali o altre autorità
- Il sistema "accresce l'autonomia delle persone" e riduce le "degenze ospedaliere"

Progetti pilota sul sostegno al processo decisionale

(Informazioni tratte da CDLP, Studio sul pari riconoscimento di fronte alla legge 2017)

Repubblica ceca: nella Repubblica Ceca l'ONG QUIP and Inclusion Czech Republic ha condotto un progetto pilota sul sostegno al processo decisionale – “Bianco e nero” (2012-2017).

Bulgaria: sono stati avviati due progetti pilota nell'ambito del “Programma prossimi passi”, per contribuire alla realizzazione di modelli di sostegno al processo decisionale in Bulgaria

Controversie strategiche: Georgia

(Informazioni tratte da CDLP, Studio sul pari riconoscimento di fronte alla legge 2017)

La Coalizione per una vita indipendente, una ONG sulla disabilità, ha aperto due uffici di consulenza legale, che hanno partecipato a parecchie controversie strategiche

Una di queste cause è quella contro una grande banca che non accetta la firma di persone con disabilità e chiede alle persone di sostegno, o a eventuali rappresentanti, l'attestazione della loro procura

La clinica è stata anche coinvolta nel caso di una persona sotto tutela che chiede il ripristino della propria capacità giuridica

Osservazioni conclusive

La CRPD è un fattore chiave per riforme legislative e cambiamenti politici reali:

gli Stati contraenti devono “abolire il rifiuto della capacità giuridica sulla base della disabilità che sia discriminatorio per oggetto o per effetto”

Obbligo di adottare il sostegno al processo decisionale al posto del processo decisionale sostitutivo

“Migliori interessi” deve essere sostituito con “volontà e preferenze” della persona

Giusto equilibrio tra tutela e autonomia
Ruolo del tribunale

Alcune conclusioni sono tratte da Comitato CRPD, Commento generale n.1

Osservazioni conclusive

“Consultare puntualmente le persone con disabilità e coinvolgerle attivamente, attraverso organizzazioni rappresentative”, nel processo legislativo, nelle politiche e in altri processi decisionali, in conformità all'articolo 12

Efficaci meccanismi di processo decisionale sostitutivo formale e informale

Opportunità di costruire “reti sociali” e lavoro; facoltà di scegliere la residenza all'interno della comunità; inclusione nell'educazione

Ricerca delle migliori pratiche che rispettino la capacità giuridica delle persone con disabilità e le forme di sostegno

Alcune conclusioni sono tratte da Comitato CRPD, Commento generale n.1

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Progetti finanziati dall'Unione europea in materia di capacità giuridica e sostegno al processo decisionale

- Il progetto Choices, finanziato dall'Unione europea, fornisce una piattaforma per il sostegno al processo decisionale
- Il progetto UE PERSON mira ad accrescere le competenze delle Organizzazioni della società civile (OSC) dei Balcani, a livello regionale e nazionale, al fine di assisterle nell'intraprendere azioni strategiche di advocacy e controllo delle riforme legislative riguardanti le persone con disabilità psicosociali e intellettive

Spunti di discussione

Il vostro paese utilizza un modello di sostegno al processo decisionale e, se sì, funziona bene?



Il vostro paese utilizza ancora la tutela parziale insieme al modello di sostegno al processo decisionale?



Qual è la vostra opinione sul concetto di "volontà e preferenze" e come si può attuare in maniera affidabile?



ONG e DPO sono state coinvolte in controversie strategiche o in altre iniziative relative a problemi sulla capacità giuridica?

GRAZIE PER L'ATTENZIONE!

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The UNCRRPD Accessibility Requirements and the EU Public Procurement Regime of the European Union

Prof Christopher Bovis FRSA
University of Hull

EU PUBLIC PROCUREMENT LEGAL FRAMEWORK

**Utilities
Directive
2014/25/EU**

**Public Sector
Directive
2014/24/EU**

**Concessions
Directive
2014/23/EU**

**Defence
Directive
2009/81/EC**

Article 1 Public Sector Directive 2014/24/EU

Subject-matter and scope

SGEI and Public Services

- This Directive does not affect the freedom of Member States to define, in conformity with Union law, what they consider to be services of general economic interest, how those services should be organised and financed, in compliance with the State aid rules, and what specific obligations they should be subject to. Equally, this Directive does not affect the decision of public authorities whether, how and to what extent they wish to perform public functions themselves pursuant to Article 14 TFEU and Protocol No 26.

UNCRPD Article 9 – Accessibility

Objectives

- Independent living
- Full participation in all aspects of life
- Equal treatment

Measures

- physical environment
- transportation
- information and communications systems
- public facilities and services

Public Services under EU Law

- Art 106 TFEU =
the foundation of public services
 - Public service obligations
 - Universal service obligations
 - Services of general economic interest
 - Social services of general interest

Public services as services of general interest

What is a (SGI)?

Protocol No 26 to the TFEU

The concept of SGI refers to services, whether 'economic' or not that the Member States regard as being of general interest, and are subject to specific public service obligations

- SGI cover:
 - services of general economic interest (SGEIs) [TFEU applicable]
 - non-economic services of general interest [TFEU not applicable]

The characteristics of public services

- Economic nature
 - Cost and value considerations
- Lack of industrial or commercial character
- Sui generis market place
 - Limited use of anti-trust
 - State aid regulation
 - Procurement as competition benchmark

The Conceptual premise of SGEI

Services of General Economic Interest

- Articles 14 and 106(2) TFEU
- Protocol No 26

Non-commercial nature *versus*

- Demand
- Frequency of supply
- Quality of service
- End user charges
- Profitability of operator

SGEIs

- “services of an economic nature that the public authorities in the Member States at national, regional or local level, depending on the allocation of powers between them under national law, subject to specific **public service obligations** through an act of entrustment on the basis of a general-interest criterion and in order to ensure that the services are provided under conditions which are not necessarily the same as prevailing market conditions”.
- **Examples of acts of entrustment**
 - Concession contract and tender documents
 - Ministerial programme contracts
 - Ministerial instructions
 - Laws and Acts
 - Yearly or multi-annual performance contracts
 - Legislative decrees, regulatory decisions, municipal decisions or acts.

The concept of social services of general interest (SSGI)

- SSGIs may be of an economic or non-economic nature
- SSGIs that are economic in nature are SGEIs
- health services
- statutory and complementary social security schemes
 - life assurance
 - health
 - ageing
 - occupational accidents
 - unemployment
 - retirement
 - disability

SSGIs

- other essential fundamental right services of social cohesion and social inclusion directly provided

assistance for persons faced by personal challenges or crises (debt, unemployment, drug addiction or family breakdown)

social integration activities (rehabilitation, language training for immigrants) and, in particular, return to the labour market (occupational training and reintegration).

services to integrate people with long-term health or disability problems.

social housing, housing for disadvantaged citizens or socially less advantaged groups.

Public Service Obligations




- State financing not state aid
 - Art 14 TFEU
 - Art 106(2) TFEU
 - Altmark ruling

Case C-280/00 *Altmark* (2003)

- Public service license for regional transport services
- CJEU: PSO compensation without real financial advantage does not distort competition and is not aid if four conditions are met
 1. Entrusted with clearly defined public service obligations
 2. Parameters for compensation clearly defined in advance
 3. Compensation based on costs plus reasonable rate of return
 4. Selection by public tender or costs of efficient undertaking
- If met: no advantage → no aid
 - Compensation approach adopted
 - National courts may assess applicability of Altmark criteria

13

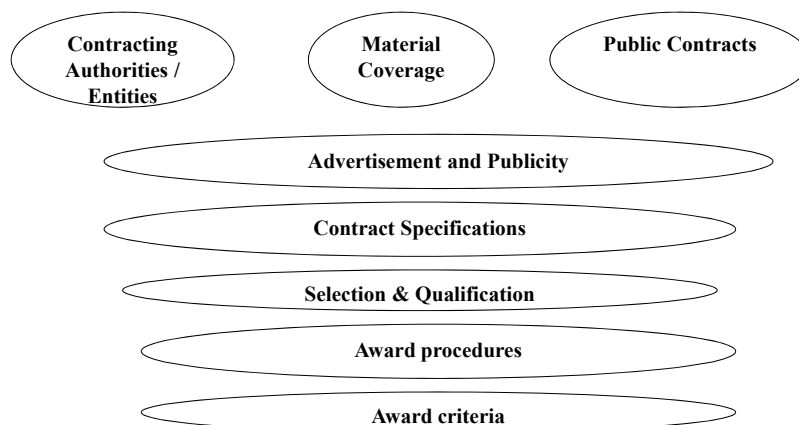
Intervention by the State

- Exclusive rights  shelters SGEI operator from competition
- Financial compensation  ensures service viability
- Definition of general rules  equalizes markets

SGEI: PSO Features

- Entrusted without competition → direct awards
- Subject to strict controls → future tendering restrictions
- Transparency requirements of public service contract → overcompensation

The Traction of EU Public Procurement Law



UNCRD Accessibility Requirements in the stages of EU Public Procurement Law

Article 20 Public Sector Directive 2014/24/EU

- Reserved contracts

- Member States may reserve the right to participate in public procurement procedures to sheltered workshops and economic operators whose main aim is the social and professional integration of disabled or disadvantaged persons or may provide for such contracts to be performed in the context of sheltered employment programmes, provided that at least 30 % of the employees of those workshops, economic operators or programmes are disabled or disadvantaged workers.

Article 62 Public Sector Directive 2014/24/EU

- Quality assurance standards and environmental management standards

- Contracting authorities shall, where they require the production of certificates drawn up by independent bodies attesting that the economic operator complies with certain quality assurance standards, including on accessibility for disabled persons, refer to quality assurance systems based on the relevant European standards series certified by accredited bodies. They shall recognise equivalent certificates from bodies established in other Member States. They shall also accept other evidence of equivalent quality assurance measures where the economic operator concerned had no possibility of obtaining such certificates within the relevant time limits for reasons that are not attributable to that economic operator provided that the economic operator proves that the proposed quality assurance measures comply with the required quality assurance standards.

Technical specifications & labels: Articles 40 – 42, Annex VIII

- *Technical specifications: Art. 40 clarified production process or if linked, other stage of life cycle;*
- *Labels:*
 - possible require label as such where label defined in transparent, objective process and all its requirements are suitable;
 - recognition equivalent labels and other means of proof where no access (art. 41(1))
 - Where all requirements are not suitable: i.e. underlying requirements (art. 41(2))
- *Third party certification (art. 42):*
 - may be required (technical specification, award criteria and/or contract performance);
 - mutual recognition re equivalent certificates;
 - Other means where no access

Technical Specifications: Article 42

- Technical specifications may be formulated in terms of performance or functional requirements
 - Functional requirements may include environmental characteristics
 - However, such parameters must be sufficiently precise
 - to allow tenderers to determine the subject-matter of the contract and
 - to allow contracting authorities to award the contract

Award Criteria: Article 67

- The economically most advantageous tender criterion includes
- various features **linked to the subject-matter of the public contract** in question, for example, **environmental characteristics or social considerations**
- **Inherent flexibility**
 - Opens the door for policy pursuits

Contract award criteria

- **Public Sector Directive: Sole award criterion: MEAT – most economically advantageous tender -**
to be assessed on the basis of
 - price, or
 - cost, **using a cost-effectiveness approach such as life-cycle costing,**
or
 - the best price-quality ratio (*BPQR*) **to be assessed on the basis of award criteria linked to the subject-matter of the contract.**
 - **organisation, qualification and experience of the staff** delivering the contract **where this can significantly impact the level of performance of the contract**
- MS can exclude or restrict the use of price or cost only as sole criterion.

Contract performance: Article 70

Contracting authorities may lay down special conditions relating to the performance of a contract:

- Provided that these are compatible with EU law and are indicated in the contract notice or in the specifications
- The performance conditions may concern social and environmental considerations

Light regime

- New specific simplified rules for social, health, cultural and other services:
 - higher threshold – EUR 750 000;
 - below threshold: typically no-cross-border interest (except if EU funding)
 - only requirements: ex-ante (and ex-post) publicity + non-discrimination principle; for the rest national rules
 - MS may impose traditional MEAT (= BPQR) criterion only
- Other services covered
 - Hotel and restaurant services
 - Certain legal services
 - Rescue, fire fighting and prison services
 - Government services and services to the community

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I requisiti di accessibilità della Convenzione e il regime degli appalti pubblici dell'Unione europea

Prof Christopher Bovis FRSA
Università di Hull

QUADRO GIURIDICO UE IN MATERIA DI APPALTI PUBBLICI

Direttiva sui
servizi di
pubblica
utilità
2014/25/UE

Settore pubblico
Direttiva
2014/24/UE

Direttiva sui
contratti di
concessione
2014/23/UE

Direttiva sugli
appalti nel
settore della
difesa
2009/81/UE

Articolo 1 direttiva sul settore pubblico 2014/24/UE

Oggetto e ambito di applicazione

Servizi di interesse economico generale (SIEG) e servizi pubblici

- La presente direttiva fa salva la libertà, per gli Stati membri, di definire, in conformità del diritto dell'Unione, quali essi ritengano essere servizi d'interesse economico generale, in che modo tali servizi debbano essere organizzati e finanziati, in conformità delle regole sugli aiuti di Stato, e a quali obblighi specifici debbano essere soggetti. Analogamente, la presente direttiva fa salva la possibilità per le autorità pubbliche di decidere se, come e in che misura desiderano espletare funzioni pubbliche autonomamente in conformità dell'articolo 14 TFUE e del protocollo n. 26.

Articolo 9 UNCRPD – Accessibilità

Obiettivi

- Vita indipendente
- Piena partecipazione a tutti gli aspetti della vita
- Parità di trattamento

Misure

- Ambiente fisico
- Trasporto
- Sistemi di informazione e comunicazione
- Strutture e servizi pubblici

Servizi pubblici nel diritto UE

- Art. 106 TFUE=
la base dei servizi pubblici
 - Obblighi di servizio pubblico
 - Obblighi di servizio universale
 - Servizi di interesse economico generale
 - Servizi sociali di interesse generale

Servizi pubblici come servizi di interesse generale (SIG)

Cos'è un SIG?

Protocollo n. 26 del TFUE

Il concetto di SIG si riferisce ai servizi, "economici" o meno, che gli Stati membri considerano di interesse generale, e che sono soggetti a obblighi specifici di servizio pubblico

- I SIG includono:
 - servizi di interesse economico generale (SIEG) [TFUE applicabile]
 - servizi di interesse generale di natura non economica [TFUE non applicabile]

Caratteristiche dei servizi pubblici

- Natura economica
 - Considerazioni relative a costo e valore
- Carattere non industriale o commerciale
- Mercato sui generis
 - Uso limitato dell'anti-trust
 - Normativa sugli aiuti di stato
 - Appalti come analisi comparativa in materia di concorrenza

La premessa concettuale dei SIEG

Servizi di interesse economico generale

- Articoli 14 e 106 (2) TFUE
- Protocollo n. 26

Natura non commerciale rispetto a:

- domanda;
- frequenza della fornitura;
- qualità del servizio;
- sistema di pagamento;
- redditività dell'operatore.

SIEG

- “Servizi di natura economica che le pubbliche autorità negli Stati membri a livello nazionale, regionale o locale, in funzione dei poteri loro attribuiti dalla legge nazionale in vigore, assoggettano a specifici **obblighi di servizio pubblico** attraverso un atto di incarico sulla base di un criterio di interesse generale e al fine di garantire che i servizi siano forniti a condizioni che non sono necessariamente uguali a quelle prevalenti di mercato”.
- **Esempi di atti di incarico**
 - Contratto di concessione e documenti di gara
 - Contratti programmatici ministeriali
 - Circolari ministeriali
 - Leggi e regolamenti
 - Contratti di prestazione annuali o pluriennali
 - Decreti legislativi, decisioni normative, regolamenti o decisioni comunali.

Il concetto di servizi sociali di interesse generale (SSIG)

- I SSIG possono essere di natura economica o non economica
- I SSIG di natura economica sono SIEG
- servizi sanitari
- regimi di sicurezza sociale legali e complementari
 - assicurazioni sulla vita
 - salute
 - invecchiamento
 - incidenti sul lavoro
 - disoccupazione
 - pensionamento
 - disabilità

SSIG

- Altri servizi di diritto essenziali e fondamentali in materia di coesione e inclusione sociale forniti direttamente

Assistenza a persone che vivono difficoltà o crisi personali (debiti, disoccupazione, tossicodipendenza o separazioni familiari)

Attività di integrazione sociale (riabilitazione sociale, formazione linguistica per immigrati) e, in particolare, di rientro nel mercato del lavoro (formazione professionale e reintegrazione nel mondo del lavoro)

Servizi per l'integrazione di persone con problemi di salute o di disabilità a lungo termine

Edilizia popolare, alloggi per cittadini svantaggiati o per gruppi sociali più svantaggiati.

Obblighi di servizio pubblico




- Finanziamento di Stato, non aiuto di Stato
 - Art. 14 TFUE
 - Art. 106 (2) TFUE
 - Sentenza Altmark

Causa C-280/00 *Altmark* (2003)

- Licenza di servizio pubblico per servizi di trasporto regionale
- CGUE: la compensazione OSP (obblighi di servizio pubblico) senza un reale vantaggio finanziario non falsa la concorrenza e non costituisce aiuto di Stato se vengono soddisfatte quattro condizioni
 1. Concessa con obblighi di servizio pubblico chiaramente definiti
 2. Parametri di compensazione previamente definiti in modo chiaro
 3. Compensazione basata sui costi più un ragionevole margine di utile
 4. Selezione tramite gara pubblica di appalto o sulla base dei costi di un'impresa gestita in modo efficiente
- Se condizioni soddisfatte: nessun vantaggio → nessun aiuto
 - Adottato l'approccio di compensazione
 - I giudici nazionali possono valutare l'applicabilità dei criteri del caso *Altmark*

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Intervento dello Stato

- Diritti esclusivi  mette l'operatore SIEG al riparo dalla concorrenza
- Compensazione finanziaria  garantisce la sostenibilità del servizio
- Definizione di norme generali  riequilibra i mercati

SIEG: caratteristiche OSP

- Concesse senza concorrenza → aggiudicazioni dirette
- Soggette a rigorosi controlli → future restrizioni nei bandi di gara
- Requisiti di trasparenza del contratto di servizio pubblico → sovracompensazione

L'iter del diritto UE in materia di appalti pubblici



Requisiti di accessibilità UNCRD nelle fasi del diritto UE in materia di appalti pubblici

Articolo 20 direttiva sul settore pubblico 2014/24/UE

- Appalti riservati

- Gli Stati membri possono riservare il diritto di partecipazione alle procedure di appalto a lavoratori protetti e ad operatori economici il cui scopo principale sia l'integrazione sociale e professionale delle persone con disabilità o svantaggiate o possono riservarne l'esecuzione nel contesto di programmi di lavoro protetti quando almeno il 30 % dei lavoratori dei suddetti lavoratori, operatori economici o programmi sia composto da lavoratori con disabilità o da lavoratori svantaggiati.

Articolo 62 direttiva sul settore pubblico 2014/24/UE

- Norme di garanzia della qualità e norme di gestione ambientale

- Qualora richiedano la presentazione di certificati rilasciati da organismi indipendenti per attestare che l'operatore economico soddisfa determinate norme di garanzia della qualità, compresa l'accessibilità per i disabili, le amministrazioni aggiudicatrici si riferiscono ai sistemi di garanzia della qualità basati sulle serie di norme europee in materia, certificati da organismi accreditati. Le amministrazioni aggiudicatrici riconoscono i certificati equivalenti rilasciati da organismi stabiliti in altri Stati membri. Esse ammettono parimenti altre prove relative all'impiego di misure equivalenti di garanzia della qualità, qualora gli operatori economici interessati non avessero la possibilità di ottenere tali certificati entro i termini richiesti per motivi non imputabili agli stessi operatori economici, a condizione che gli operatori economici dimostrino che le misure di garanzia della qualità proposte soddisfano le norme di garanzia della qualità richieste.

Specifiche tecniche ed etichettature: Articoli 40 – 42, Allegato VIII

- *Specifiche tecniche L'art. 40 ha chiarito il processo di produzione o, se collegate, altre fasi del ciclo di vita*
- *Etichettature:*
 - possibilità di richiedere un'etichettatura se definita tramite; processo obiettivo e trasparente e se tutti i requisiti sono idonei;
 - riconoscimento di etichettature equivalenti e di altri strumenti di prova in caso di mancato accesso (art. 41 (1));
 - Qualora non tutti i requisiti siano idonei: per es. i requisiti alla base (art. 41 (2)).
- *Certificazione di terze parti (art. 42):*
 - può essere richiesta (specifica tecnica, criteri di aggiudicazione e/o esecuzione contrattuale);
 - mutuo riconoscimento di certificati equivalenti;
 - Altri mezzi in caso di mancato accesso.

Specifiche tecniche: Articolo 42

- Le specifiche tecniche possono essere formulate in termini di prestazioni o di requisiti funzionali
 - I requisiti funzionali possono comprendere le caratteristiche ambientali
 - Tali parametri, tuttavia, devono essere sufficientemente precisi
 - da consentire agli offerenti di determinare l'oggetto dell'appalto e
 - alle amministrazioni aggiudicatrici di aggiudicare l'appalto

Criteri di aggiudicazione: articolo 67

- Il criterio dell'offerta economicamente più vantaggiosa include
- vari aspetti **connessi all'oggetto dell'appalto pubblico in questione**, tra cui **caratteristiche ambientali o considerazioni di natura sociale**
- **Flessibilità intrinseca**
 - Spiana la strada a sviluppi politici

Criteri di aggiudicazione del contratto

- **Direttiva settore pubblico Criterio unico di aggiudicazione MEAT – offerta economicamente più vantaggiosa -**
da valutare sulla base di
 - prezzo, o
 - costo, **utilizzando un approccio costo/efficacia, come ad esempio i costi del ciclo di vita**, o
 - al miglior rapporto qualità/prezzo (*BPQR*) **da valutare sulla base di criteri di aggiudicazione collegati all'oggetto dell'appalto pubblico**
 - **organizzazione, qualificazione ed esperienza del personale incaricato dell'esecuzione del contratto qualora ciò possa incidere significativamente sulla qualità di esecuzione dell'appalto**
- Gli SM possono escludere o restringere l'utilizzo del criterio unico di prezzo o costo.

Esecuzione dell'appalto: articolo 70

Le amministrazioni aggiudicatrici possono esigere condizioni particolari in merito all'esecuzione dell'appalto:

- purché compatibili con il diritto UE e e siano indicate nel bando di gara o nelle specifiche;
- le condizioni di esecuzione possono riguardare considerazioni sociali e ambientali.

Regime alleggerito

- Nuove norme specifiche semplificate per servizi sociali, sanitari, culturali e di altra natura
 - Soglia più elevata - 750.000 EUR
 - Inferiore alla soglia: normalmente senza interessi a livello transfrontaliero (tranne in caso di finanziamento UE)
 - Solo requisiti: pubblicità ex-ante (ed ex post) + principio di non discriminazione; per il resto, norme nazionali
 - Lo SM può imporre il tradizionale criterio unico MEAT (= BPQR)
- Altri servizi coperti
 - Servizi alberghieri e di ristorazione
 - Taluni servizi legali
 - Servizi di soccorso, antincendio e carcerari
 - Servizi statali e servizi alla collettività

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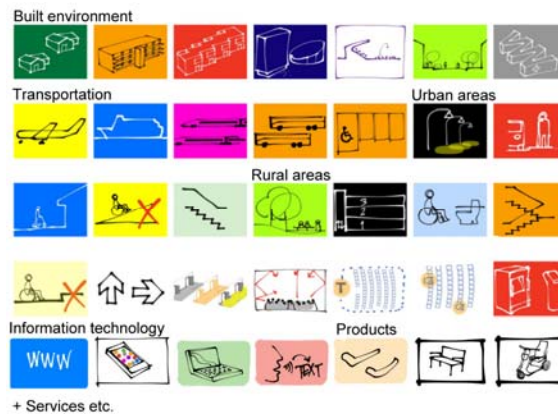
Accessibility to the BUILT ENVIRONMENT

Soren Ginnerup
Danish Building Research Institute
Denmark



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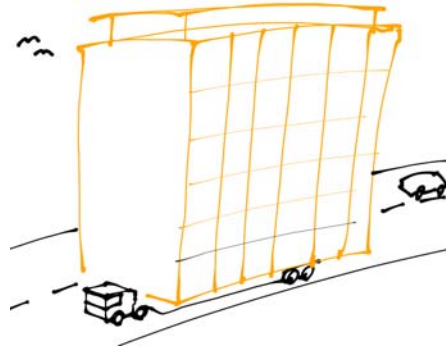
The UN CRPD and accessibility



- Article 3 General principles
 - Accessibility
- Article 4 General obligations
 - To undertake or promote research and development of universally designed goods, services, equipment and facilities
 - To promote universal design in the development of standards and guidelines;
- Article 9 Accessibility
 - Access to Buildings, roads, transportation and other indoor and outdoor facilities, including schools, housing, medical facilities and workplaces; information, communications and other services, including electronic services and emergency services.

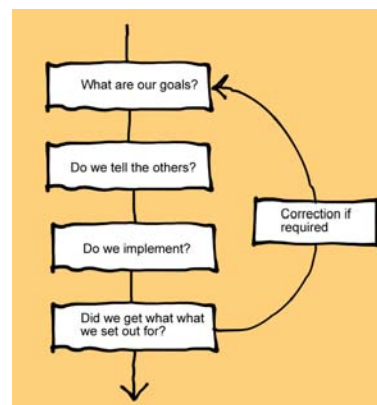
Buildings don't get hauled across borders very often...

- Not demonstrated to be an internal market issue
 - Building regulations tend to remain a national issue
 - Pre-fab houses e.g. only a small share of market
- All countries would have to unanimously agree on requirements if we were to have common regulations on accessibility



Accessibility vs Design for All vs Universal Design?

- Council of Europe: Recommendation Rec (2006)
- Focus on the content, not just headlines
 - Design for all, universal design, inclusive design, accessibility for all, barrier-free design etc. seem to be converging
- Focus on efficiency of the process
 1. Are adequate standards in place?
 2. Is spreading of knowledge ensured
 3. Implementation actually taking place, backed by adequate resources?
 4. Follow-up procedures in place?



Member States cover accessibility differently and by different types of documents

Table F.2.2 - Built Environment Elements – Internal Environments

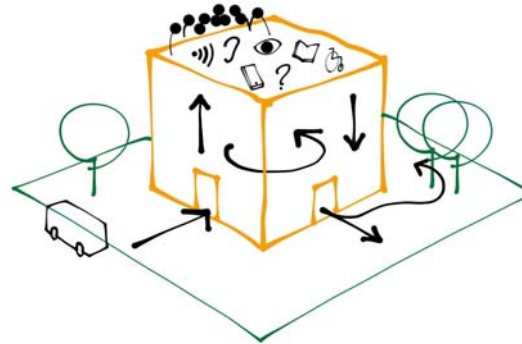
Built Environment Elements	Deft DOOPIS 21241	Austria	Belgium Flanders	Canada	Denmark	Finland	Greece	Ireland	Luxem- bourg	Sweden	USA	UK (England +Wales)	Nether- lands	IBC
Entrances	c	c	c	c	c	p	c	c	c	c	p	c	c	p
Reception Areas, counters, desks and	c	c	n	c	n	n	c	c	c	c	p	c	n	c
Security Provisions	p	p	n	c	p	n	p	n	p	n	p	n	p	p
Storage Facilities	n	c	n	c	p	n	c	p	n	p	p	p	n	p
Circulation Routes	c	c	c	c	p	c	c	c	c	c	c	c	c	c
Manoeuvring space requirements	c	c	c	c	c	c	c	c	c	c	c	c	c	c
Lobbies	c	c	p	c	n	c	c	c	c	c	c	c	p	c
Internal Doors	c	c	c	c	p	c	c	c	p	c	c	c	c	c
Windows	c	c	n	c	n	n	p	c	n	c	c	c	n	c
Passenger Lifts	c	c	c	c	c	c	c	c	c	c	c	c	c	c
Passenger lifts for existing buildings	p	c	p	c	c	p	c	c	n	c	c	c	c	c
Platform Lifts / Lifting Platforms	p	c	p	c	c	p	c	c	c	c	c	c	n	c
Stairs	c	c	c	c	c	c	c	c	c	c	p	c	n	p
Ramps	c	c	c	c	c	c	c	c	c	c	c	c	c	c
Escalators	c	n	p	n	n	n	p	n	n	c	p	n	c	c
Travelators	c	n	n	n	n	n	p	n	n	c	p	n	c	c
Handrails	c	c	c	c	c	p	c	c	c	c	c	c	n	c
Sanitary facilities for ambulant disabled	p	p	p	n	p	n	c	c	n	n	c	c	c	c
Sanitary facilities for wheelchair users	c	c	c	c	c	c	c	c	c	c	c	c	c	c
Sanitary facilities for other users - e.g.	p	p	c	n	n	n	p	c	n	p	c	c	n	c
First Aid Facilities	n	c	n	c	n	n	p	n	n	n	p	n	n	p
Surface finishes	p	c	p	c	n	p	p	c	c	p	p	p	n	p
Glazing and Manifestations/markings	c	c	c	c	p	p	p	c	c	c	n	c	n	p
Colour Contrasts	c	c	n	c	n	p	p	c	c	c	p	c	n	p
Signage and wayfinding (interior - audible)	p	c	p	n	n	p	p	c	n	p	p	c	n	p
Signage and wayfinding (interior - visual)	c	c	c	c	p	p	c	c	c	c	p	c	n	p
Signage and wayfinding (interior - tactile)	c	c	c	c	p	p	c	c	c	p	p	c	n	p
Lighting (interior)	p	c	p	c	p	p	p	p	p	p	p	c	n	p
Acoustics	p	c	n	c	p	n	p	n	c	n	p	n	p	p
Audible Communication Systems	p	c	p	c	p	n	p	c	c	p	p	c	n	p
Switches, Outlets and controls	c	c	p	c	p	n	c	c	c	c	c	c	n	c
Emergency Egress Requirements	c	c	p	c	p	n	p	p	n	c	c	c	n	c
Refuse systems	n	p	n	n	c	n	n	n	c	n	p	p	p	p
Furnishing (seating, desks, etc.)	c	c	p	c	p	p	c	c	c	c	p	c	n	p
Indoor Climate	c	c	c	c	c	c	c	c	c	c	c	c	c	c

Public Procurement: EN standard on accessibility under development

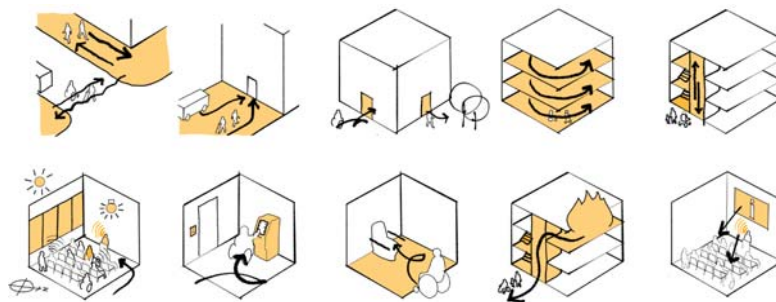
1. EN standard on high and medium level functional requirements
2. TR 1 on technical specifications
3. TR 2 on assessment methods

Current scope

- Tool for public procurement
- Accessibility with a Design for All / Universal Design approach
 - In line with UN CRPD
 - Building on CEN Guide 6



Example key areas

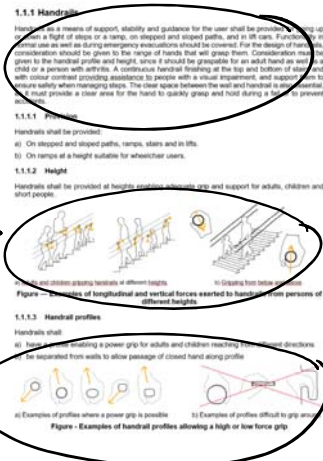


Equitable and safe use of a built environment:

- Ranging from urban pedestrian areas, approach to buildings, entry, horizontal circulation, vertical circulation, use of rooms, equipment, sanitary facilities, to evacuation and information.

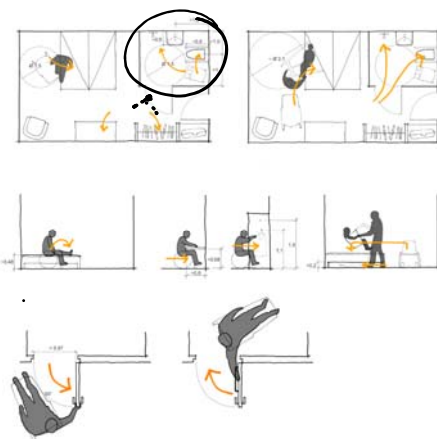
EN strategy (functional requirements)

- Provides an explanation to each topic
 - "Why should we do this?"
- Provides figures on functionality
 - "Architects rely less on reading"
- Enhances aspects of good and safe design in general
 - Many aspects are for all people, not only people with functional limitations



TR 1 strategy (technical specifications)

- Includes all text from the EN
 - TR 1 without the EN is barely readable
- Aligns TR 1 technical specifications with EN functional requirements
 - Specifications should enable assessment
- Adds specifications to figures from the EN
 - Recommended values and solutions



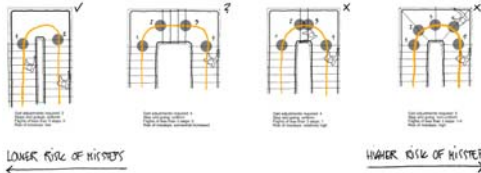
TR 2 strategy (assessment)

- Tabular listing of functional and technical specifications from EN and TR 1
 - Tool for the professional consultant
- Assessment suggested in early, intermediate and later stages of the process
 - Different assessment stages in member states
- Examples of accepted and non-recommendable solutions added in TR 1 if helpful for TR 2

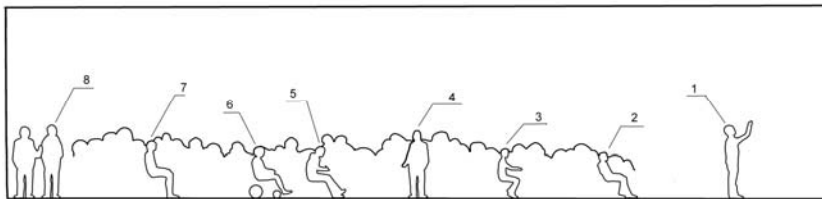
TR 2: Assessment of stairs

Table: Test plan for stair specifications

Clause	Feature to be tested (including all sub-clauses)	Early stage		Intermediate stage		Later stage	
		Briefing	Feasibility	Planning	Design	Construction	Sign off
13	1				X	X	X
13	2				X	X	X
13	3				X	X	X
13	4			X	X	X	X
13	5				X	X	X
13	6				X	X	X
13	7				X	X	X
13	8				X	X	X
13	9				X	X	X
13	10			X	X	X	X
13	11			X	X	X	X
13	1				X	X	X
13	1			X	X	X	X



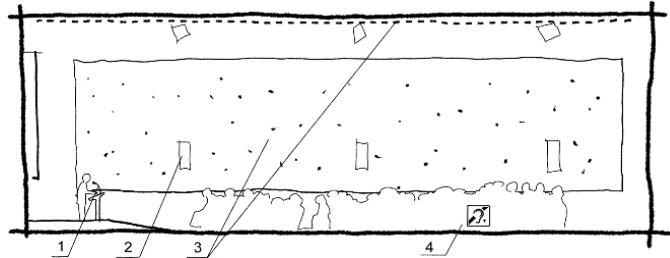
Universal Design in development of standard: Focus on persons, abilities and needs



Examples of persons at conference able to participate if the following is provided:

1. Amplification of voice
2. Seating with adequate back support
3. Lighting on lecturers face for lip reading
4. Hearing enhancement system
5. Adequate light for note taking
6. Level access and a wheelchair space
7. Clean air and controlled indoor climate
8. Low noise levels and short reverberation times in room

Sensory issues included, e.g.
acoustics

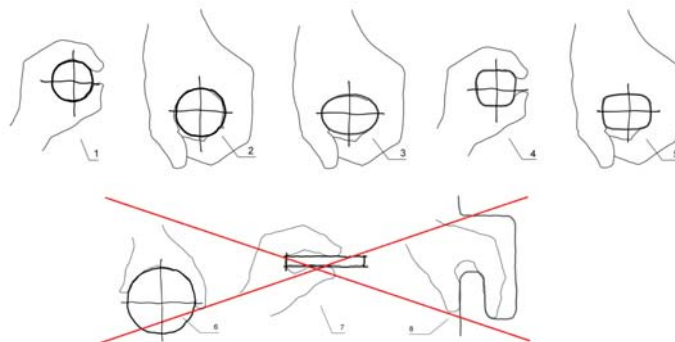


- Example conference room:

Key:

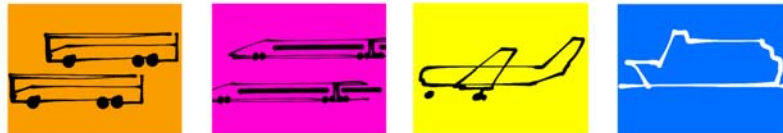
- 1 Music or speech source
- 2 Sound amplification system
- 3 Reflective, dispersive and absorptive surfaces
- 4 Hearing enhancement system

Broader general functionality focus



- General functionality for children and adults, including safety issues and usability for all
 - Example of details: handrails

Railway, airport, bus and ferry terminals

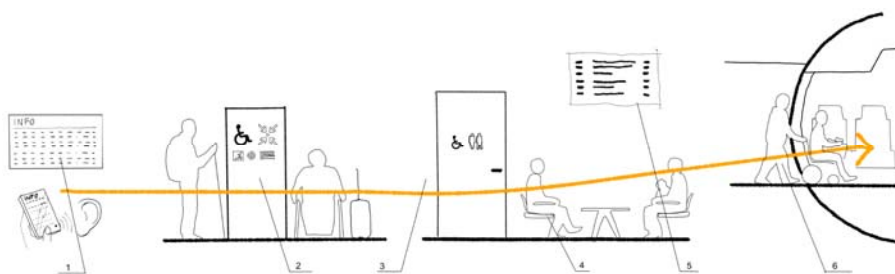


- Transport related built environments influenced by EU-directives, regulations and voluntary national standards
- Mostly rooted in pre CRPD decisions
- Highly compatible with DFA or UD approach

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Impact on airports: example details



Key to figure:

- 1 Information in accessible formats (print, web, apps)
- 2 Points of arrival and departure for assistance outside and inside of building (e.g. from bus, taxi, parking, railway)
- 3 Accessible route outside and inside (e.g. from bus, taxi, parking, railway)
- 4 Accessible facilities (e.g. entrances, check-in, baggage drop, cafes, counters, seating)
- 5 Information in accessible formats
- 6 Assisted boarding utilizing aids of adequate size and capacity

- The rights to assistance indirectly include built environment standards
 - High level functional requirements mainly

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Impact on railway infrastructure

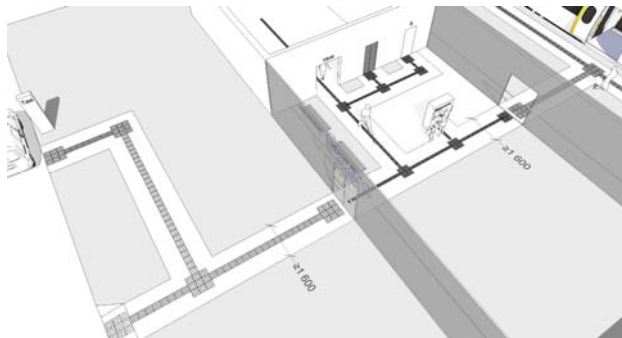


- Directive (EU) 2016/797: infrastructure and rolling stock subject to TSI-PRM
- 2014 onwards: all types of railways (excl. metro og light rail)
- EN standards conformity assessment standards 2017

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UD and TSI-PRM details

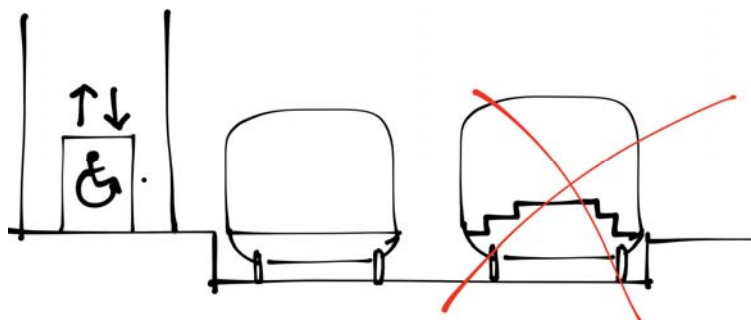


- **Technical Specification on Interoperability, Persons with Reduced Mobility (TSI-PRM)**
 - Applies to Railway infrastructure and rolling stock
 - Assessment standards in place 2017
 - Influences EN standards with built environments as scope, e.g. barrierfree routes, contrast and information

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Impact on built environment: Upgrade plans mandatory

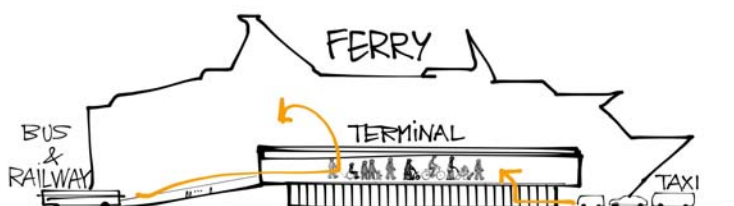


- Inventory of assets: status on accessibility of railway stations and rolling stock

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Impact on passenger ferry terminals

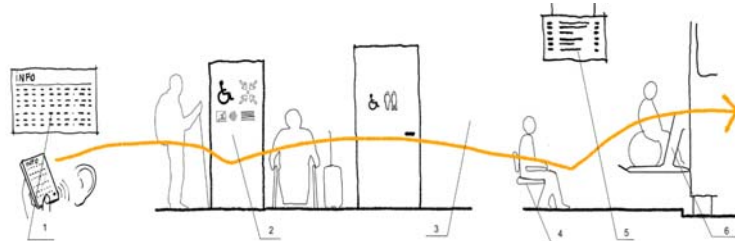


- Regulation (EU) No 1177/2010
- National standards to be developed by Member States

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Impact on busses and coach terminals

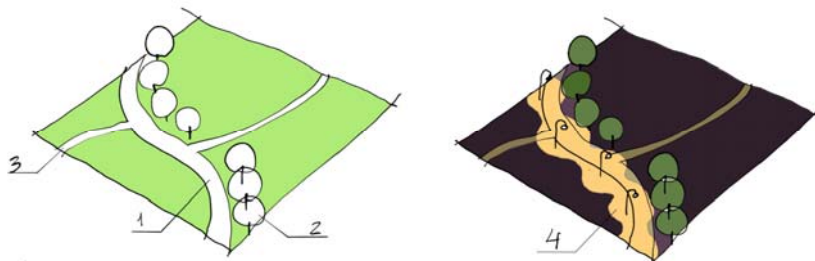


- Regulation (EU) No 181/2011
- Rights of passengers in bus and coach transport
- Low floor bus directive (lots of years ago)

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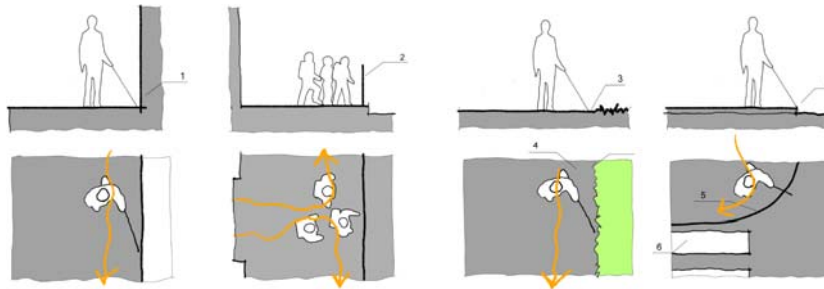
21

Impact?



- Organization of parks, paths and outdoor areas for wayfinding
 - Trees, with of paths and lighting used as parameters

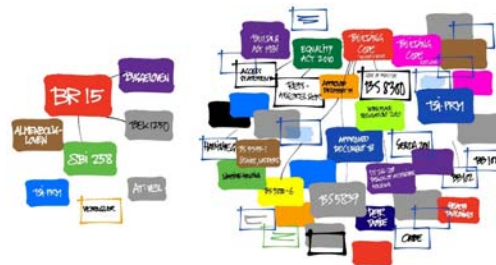
Impact on cityscapes: pedestrian areas?



- National regulations apply
 - Example guiding elements in pedestrian areas

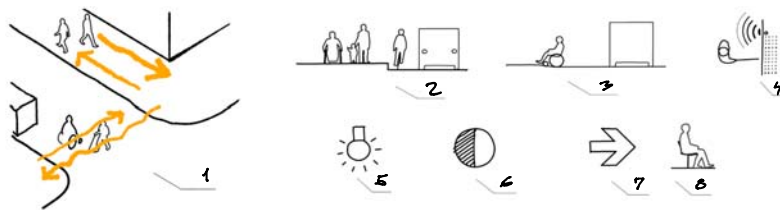
Example role of EN standard i EU member states

- Public procurement of built environments tool
 - Voluntary
- Possible Universal Design benchmark:
 - National standards and building regulations; functional requirements
- Possible benchmark for
 - National technical requirements
 - National assessment procedures
- Higher level of accessibility?



Break before workshop

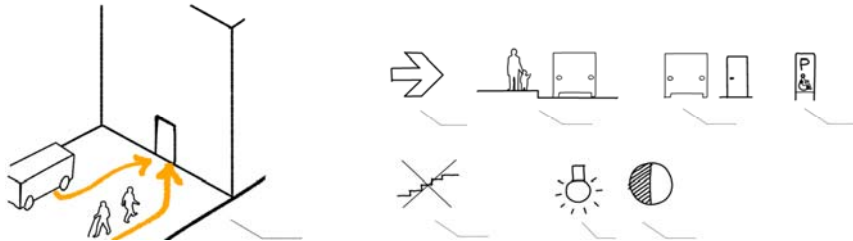
Workshop case study 1 Impact on pedestrian areas, urban?



Key to figure:

- 1 simplified representation of pedestrian area and road crossing
- 2 separate pedestrian and vehicular areas, e.g. kerbs and guards
- 3 step-free road crossings, e.g. dropped kerbs
- 4 audible and tactile guidance, e.g. audible traffic signals
- 5 good lighting, e.g. high lighting level in traffic lights
- 6 good contrast, e.g. white markings on road surface
- 7 good signage, e.g. road signs with clearly legible text and numbers, directional signage
- 8 resting places, e.g. benches at regular intervals along pedestrian areas

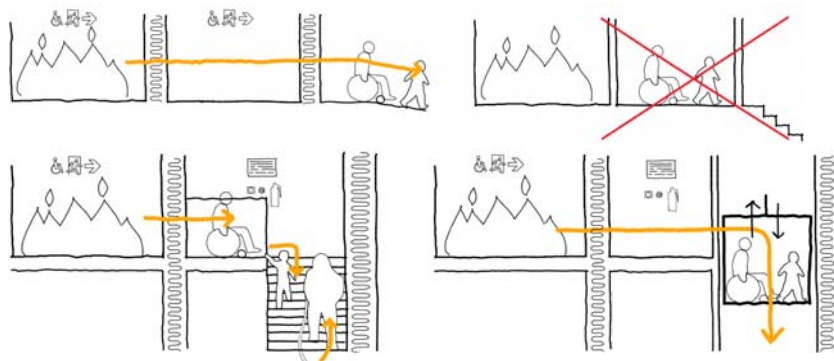
Workshop case study 2: Impact on approach to buildings?



Key to figure:

- 1 simplified representation of approach to building
- 2 easy to locate; e.g. visible from approach route, good signage
- 3 clear pedestrian routes separate from vehicles and cyclists, e.g. separated by kerb or guard
- 4 short distances from parking and public transport
- 5 designated parking, e.g. parking places for cars, vans and bicycles
- 6 no steps or obstacles, e.g. level access or via ramps
- 7 good lighting, e.g. directional lighting along paths, non-glare
- 8 good visual contrast, e.g. visual contrast between path and adjacent area

Workshop case study 3: Evacuation in buildings



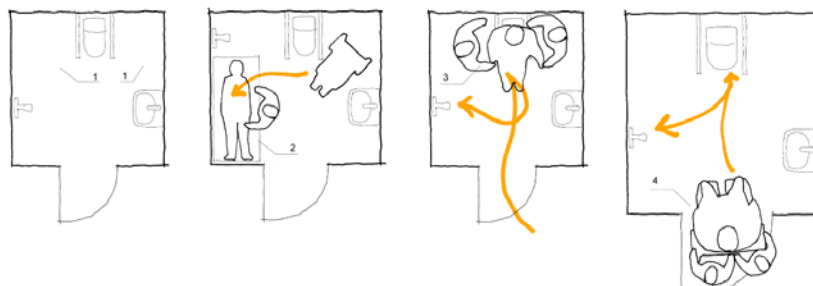
- How far do Member States obligations go?
 - No evacuation?
 - Assisted evacuation?
 - Independent evacuation from buildings?

Workshop case study 4 Sanitary rooms?



- Obligations on the universally designed toilet:
 - How do member states decide on solutions to point to?

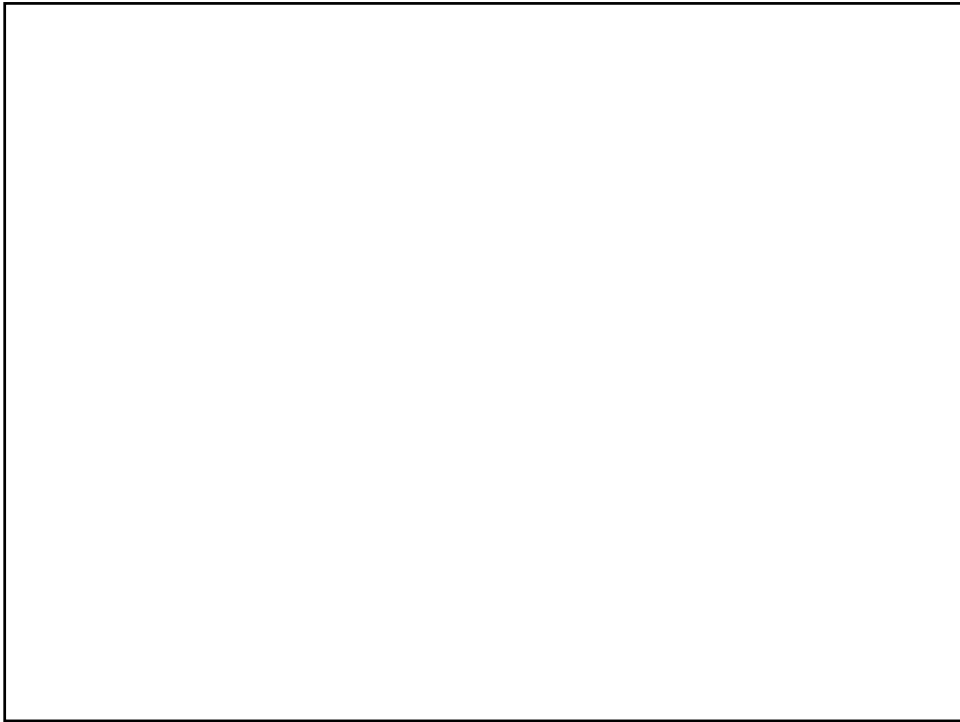
Workshop case study 4 (continued): Sanitary rooms



Many philosophies and needs!

Key to figure:

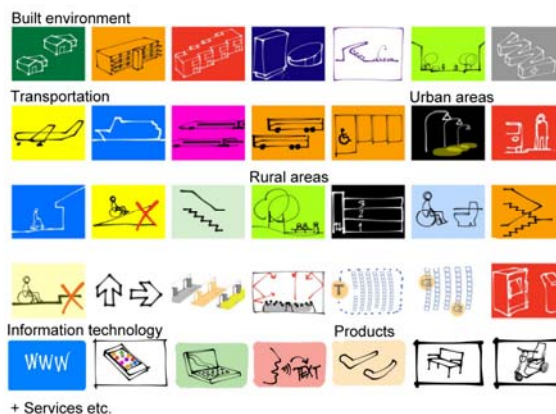
1. Sanitary room with enlarged manoeuvring area and dual side access
2. Example changing room facility with transfer from mobility device to full length bench by use of hoist
3. Example assisted manoeuvres to and from toilet and shower in enlarged room
4. Example sanitary room for use by sedentary person with two assistants in hospital or care facility



Accessibilità dell'AMBIENTE COSTRUITO

Soren Ginnerup
Istituto danese di ricerca sulle costruzioni
Danimarca

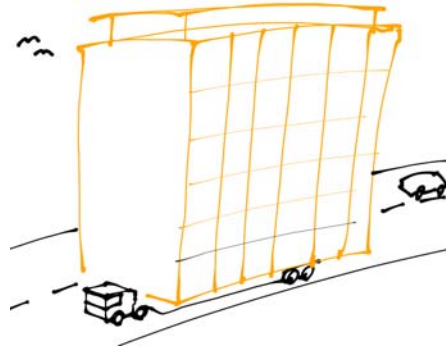
La UNCRPD e l'accessibilità



- Articolo 3 Principi generali
 - Accessibilità
- Articolo 4 Obblighi generali
 - Intraprendere o promuovere ricerche e sviluppo di strutture, attrezzature, servizi e beni realizzati in base ai principi di progettazione universale
 - Promuovere la progettazione universale nello sviluppo di norme e linee guida
- Articolo 9 Accessibilità
 - Accesso a edifici, strade, trasporti e altre strutture interne ed esterne, tra cui scuole, abitazioni, strutture medico-sanitarie e luoghi di lavoro; servizi di informazione, comunicazione e di altra natura, compresi i servizi elettronici e quelli di emergenza.

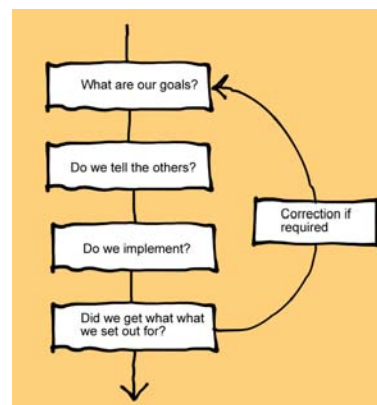
Non accade molto spesso che gli edifici vengano trasportati oltre frontiera...

- Non è provato che si tratti di un problema di mercato interno
 - Le normative riguardanti l'edilizia restano una questione di competenza nazionale
 - Le case prefabbricate, per esempio, rappresentano solo una piccola quota del mercato
- Per disporre di normative comuni in materia di accessibilità, tutti i paesi dovrebbero decidere all'unanimità i relativi requisiti



Raffronto: accessibilità/progettazione per tutti/progettazione universale

- Consiglio d'Europa: Raccomandazione Rec (2006)
- Concentrarsi sul contenuto e non sui titoli
 - Progettazione per tutti, progettazione universale, progettazione inclusiva, accessibilità per tutti, progettazione senza barriere, ecc., sembrano tutti concetti convergenti
- Concentrarsi sull'efficienza del processo
 1. Sono in vigore norme adeguate?
 2. La diffusione della conoscenza è garantita?
 3. L'attuazione procede realmente, sostenuta da risorse adeguate?
 4. Esistono procedure di controllo e approfondimento?



Gli Stati membri si occupano di accessibilità in modo diverso e con tipi diversi di documenti

Table F.2.2 - Built Environment Elements - Internal Environments

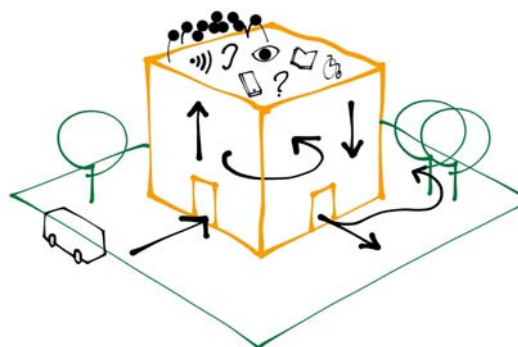
Built Environment Elements	Deft ISO/TS 21541	Austria	Belgium Flanders	Canada	Denmark	Finland	Greece	Ireland	Luxem- bourg	Sweden	USA	UK (England +Wales)	Nether- lands	IBC
Entrances	c	c	c	c	c	p	c	c	c	c	p	c	c	p
Reception Areas, counters, desks and	c	c	n	c	n	n	c	c	c	c	c	c	n	c
Security Provisions	p	p	n	c	p	n	p	n	p	n	p	n	p	p
Storage Facilities	n	c	n	c	p	n	c	p	n	p	p	p	n	p
Circulation Routes	c	c	c	c	p	c	c	c	c	c	c	c	c	c
Manoeuvring space requirements	c	c	c	c	c	c	c	c	c	c	c	c	c	c
Lobbies	c	c	p	c	n	c	c	c	c	c	c	c	p	c
Internal Doors	c	c	c	c	p	c	c	c	p	c	c	c	c	c
Windows	c	c	n	c	n	n	p	c	n	c	c	c	n	c
Passenger Lifts	c	c	c	c	c	c	c	c	c	c	c	c	c	c
Passenger lifts for existing buildings	p	c	p	c	c	p	c	c	n	c	c	c	c	c
Platform Lifts / Lifting Platforms	p	c	p	c	c	p	c	c	c	c	c	c	n	c
Stairs	c	c	c	c	c	c	c	c	c	c	p	c	n	p
Ramps	c	c	c	c	c	c	c	c	c	c	c	c	c	c
Escalators	c	n	p	n	n	n	p	n	n	c	p	n	c	c
Travelators	c	n	n	n	n	n	p	n	n	c	p	n	c	c
Handrails	c	c	c	c	c	p	c	c	c	c	c	c	n	c
Sanitary facilities for ambulant disabled	p	p	n	n	p	n	c	c	n	n	c	c	c	c
Sanitary facilities for wheelchair users	c	c	c	c	c	c	c	c	c	c	c	c	c	c
Sanitary facilities for other users - e.g.	p	p	c	n	n	n	p	c	n	p	c	c	n	c
First Aid Facilities	n	c	n	c	n	n	p	n	n	n	p	n	n	p
Surface finishes	p	c	p	c	n	p	p	c	c	p	p	p	n	p
Glazing and Manifestations/markings	c	c	c	c	p	p	p	c	c	c	n	c	n	p
Colour Contrasts	c	c	n	c	p	p	p	c	c	c	p	c	n	p
Signage and wayfinding (interior - audible)	p	c	p	n	n	p	p	c	n	p	p	c	n	p
Signage and wayfinding (interior - visual)	c	c	c	c	p	p	c	c	c	p	p	c	n	p
Signage and wayfinding (interior - tactile)	c	c	c	c	p	p	c	c	c	p	p	c	n	p
Lighting (interior)	p	c	p	c	p	p	p	p	p	p	p	c	n	p
Acoustics	p	c	n	n	c	n	n	p	n	c	n	p	n	p
Audible Communication Systems	p	c	p	c	c	p	c	c	c	c	p	c	n	p
Switches, Outlets and controls	c	c	p	c	p	n	c	c	c	c	c	c	n	c
Emergency Egress Requirements	c	c	p	c	p	n	p	p	n	c	c	c	n	c
Refuse systems	n	p	n	n	c	n	n	n	c	n	c	p	p	p
Furnishing (seating, desks, etc.)	c	c	p	c	p	p	c	c	c	c	p	c	n	p
Indoor Climate	c	c	c	c	c	c	c	c	c	c	c	c	c	c

Appalti pubblici: in fase di sviluppo la norma EN sull'accessibilità

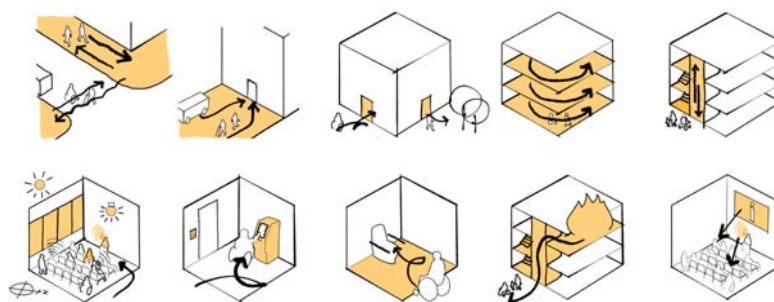
1. Norma EN sui requisiti funzionali di medio e alto livello
2. TR (relazione tecnica) 1 sulle specifiche tecniche
3. TR 2 sui metodi di valutazione

Campo attuale di applicazione

- Strumento per gli appalti pubblici
- Accessibilità con approccio di progettazione per tutti/progettazione universale
 - In linea con la UNCRPD
 - Sulla base della Guida CEN 6



Esempio di aree chiave

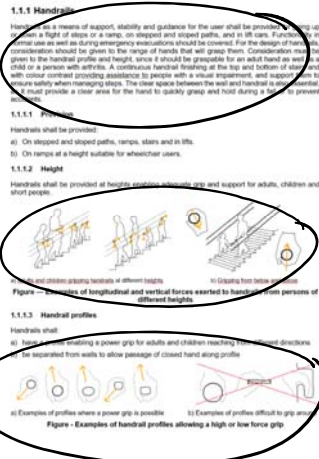


Utilizzo equo e sicuro di un ambiente costruito:

- aree pedonali urbane, approccio agli edifici, ingresso, circolazione orizzontale, circolazione verticale, utilizzo delle stanze, attrezzature, servizi sanitarie, vie di evacuazione e informazioni.

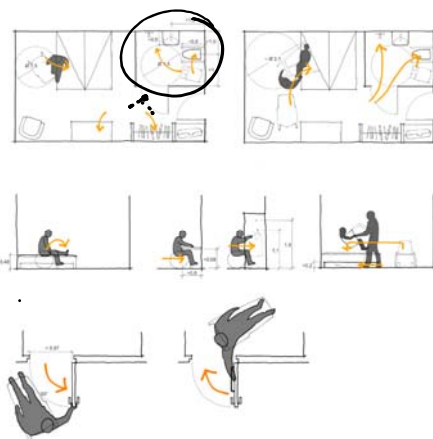
Strategia EN (requisiti funzionali)

- Offre la spiegazione di ogni tematica
 - "Perché dovremmo fare questo?"
- Fornisce cifre riguardo alla funzionalità
 - "Gli architetti si basano meno sulla lettura"
- Migliora, in generale, gli aspetti di una progettazione buona e sicura
 - Molti aspetti riguardano tutte le persone, non solo persone con limitazioni funzionali



Strategia TR 1 (specifiche tecniche)

- Include tutto il testo EN
 - TR 1 senza EN è di difficile lettura
- Allinea le specifiche tecniche TR 1 con i requisiti funzionali EN
 - Le specifiche devono permettere di eseguire la valutazione
- Aggiunge specifiche alle cifre della norma EN
 - Soluzioni e valori raccomandati



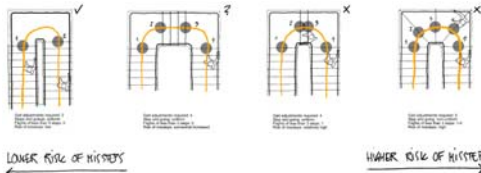
Strategia TR 2 (valutazione)

- Elenco tabellare di specifiche tecniche e funzionali EN e TR 1
 - Strumento per il consulente professionista
- Valutazione consigliata nelle fasi iniziali, intermedie e finali del processo
 - Fasi diverse di valutazione negli Stati membri
- Esempi di soluzioni accettate e non raccomandabili aggiunte in TR 1 se utili per TR 2

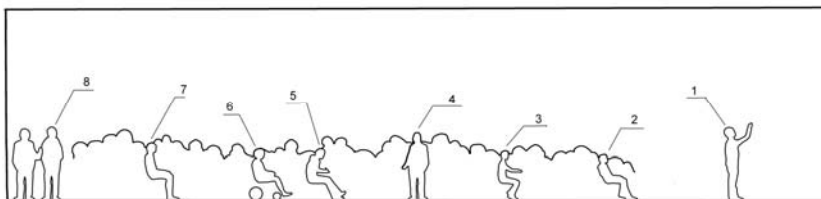
TR 2: Assessment of stairs

Table: Test plan for stair specifications

Clause	Feature to be tested (including all sub-clauses)	Early stage		Intermediate stage		Later stage	
		Briefing/ception	Feasibility	Planning	Design	Construction	Sign off
13 1	uniform rise and treads				X	X	X
13 2	not have open risers				X	X	X
13 3	projection of a step nosing				X	X	X
13 4	height clearance			X	X	X	X
13 5	handrails to both sides				X	X	X
13 6	visual warning strip contrast				X	X	X
13 7	handrails at top and bottom				X	X	X
13 8	nosing width				X	X	X
13 9	number of risers per flight				X	X	X
13 10	surface materials			X	X	X	X
13 11	lighting illumination			X	X	X	X
13 12	landings – gradient				X	X	X
13 13	landings – material			X	X	X	X



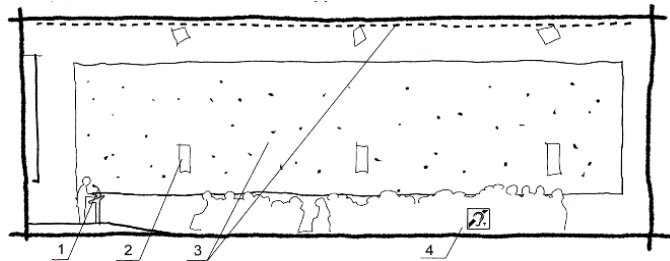
Progettazione universale nello sviluppo della norma: attenzione rivolta a persone, capacità e bisogni



Esempi di presenti a una conferenza in grado di partecipare attivamente se vengono forniti i seguenti servizi

1. Amplificazione della voce
2. Seduta con sostegno adeguato per la schiena
3. Illuminazione sulla faccia degli oratori per la lettura delle labbra
4. Sistema di miglioramento acustico
5. Luce adeguata per prendere note
6. Accesso sullo stesso livello e spazio per carrozzina a rotelle
7. Aria pulita e clima interno controllato
8. Bassa rumorosità e tempi ridotti di riverbero nella stanza

Incluse le problematiche sensoriali,
per es. l'acustica

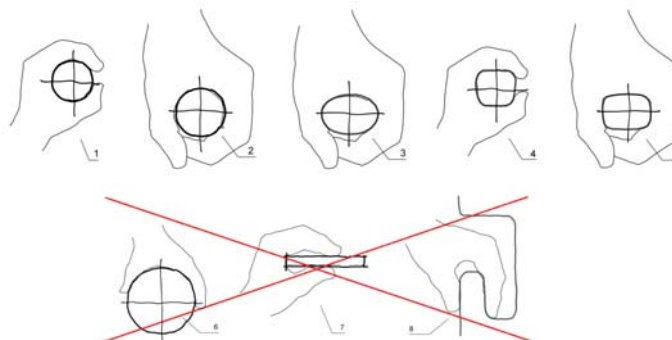


• Esempio di sala conferenze

Legenda

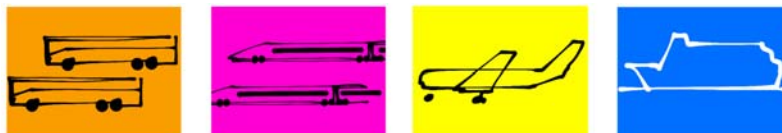
- 1 Origine della musica o del parlato
- 2 Sistema di amplificazione acustica
- 3 Superfici riflettenti, dispersive e assorbenti
- 4 Sistema di miglioramento acustico

Maggiore attenzione generale sulla
funzionalità



- Funzionalità generale per bambini e adulti, comprese le questioni di sicurezza e usabilità per tutti
 - Esempio di dettagli: corrimano

Stazioni ferroviarie, di autobus, di traghetti e aeroporti

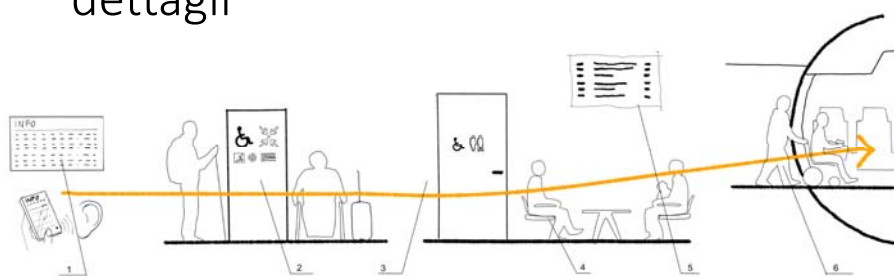


- Ambienti costruiti riguardanti i trasporti influenzati da direttive e regolamenti UE, nonché da norme volontarie nazionali
- Principalmente radicate nelle decisioni pre-CRPD
- Altamente compatibili con approccio DFA o UD

SBi – 22.05.2017

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Impatto negli aeroporti: esempio di dettagli



Legenda

- 1 Informazioni in formato accessibile (cartaceo, Internet, applicazioni)
- 2 Punti di arrivo e partenza per assistenza all'esterno e all'interno dell'edificio (per es. da autobus, taxi, parcheggio, ferrovia)
- 3 Percorso accessibile all'esterno e all'interno (per es. da autobus, taxi, parcheggio, ferrovia)
- 4 Strutture accessibili (per es. ingressi, check-in, consegna bagagli, bar, banchi, posti a sedere)
- 5 Informazioni in formato accessibile
- 6 Salita a bordo assistita utilizzando dispositivi di ausilio che abbiano capacità e dimensioni adeguate

- I diritti all'assistenza includono indirettamente le norme dell'ambiente costruito
 - Principalmente requisiti funzionali di alto livello

SBi – 22.05.2017

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Impatto sull'infrastruttura ferroviaria

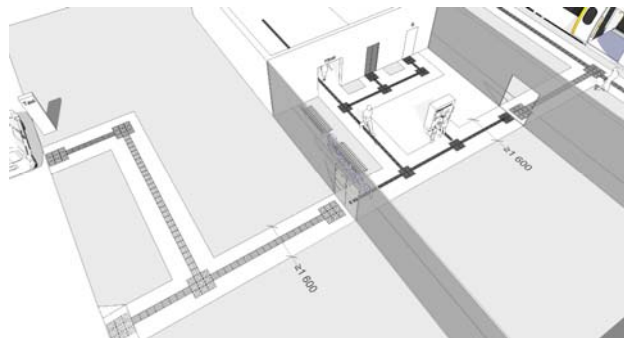


- Direttiva (UE) 2016/797: infrastruttura e materiale rotabile soggetto a STI-PMR
- Dal 2014: tutti i tipi di strade ferrate (esclusa le metropolitana leggera)
- Valutazione di conformità alle norme EN 2017

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UD e dettagli STI-PMR

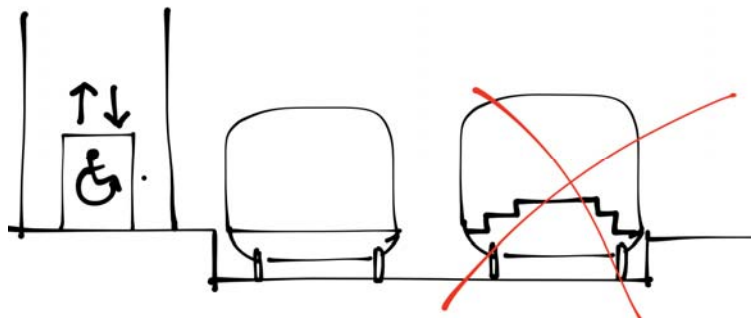


- Specifiche tecniche sull'interoperabilità, persone con mobilità ridotta (STI-PMR)
 - Applicabile a infrastrutture ferroviarie e materiale rotabile
 - Norme di valutazione in vigore 2017
 - Influenza le norme EN con l'ambiente costruito come campo di applicazione: percorsi senza barriere, contrasti e informazioni

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Impatto sull'ambiente costruito: Piani d'aggiornamento obbligatori

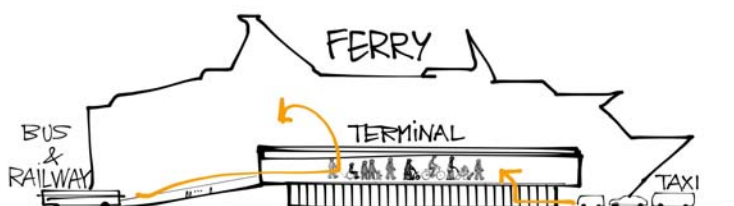


- Inventario del patrimonio disponibile: situazione dell'accessibilità di stazioni ferroviarie e materiale rotabile

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Impatto nelle stazioni di traghetti

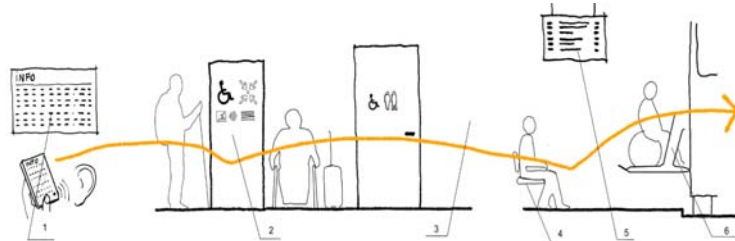


- Regolamento (UE) n. 1177/2010
- Norme nazionali che devono essere sviluppate dagli Stati membri

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Impatto sulle stazioni di autobus

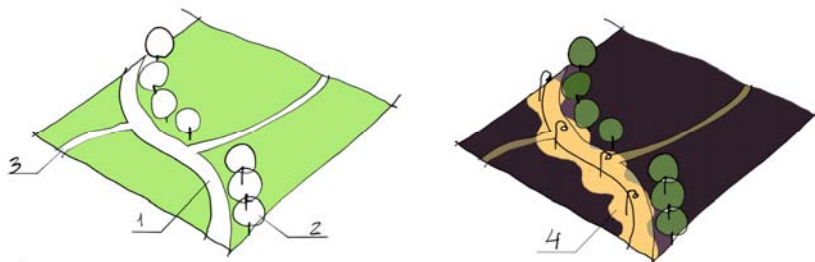


- Regolamento (UE) n. 181/2011
- Diritti dei passeggeri nel trasporto effettuato con autobus
- Direttiva sugli autobus a pianale ribassato (molti anni fa)

SBi – 22.05.2017

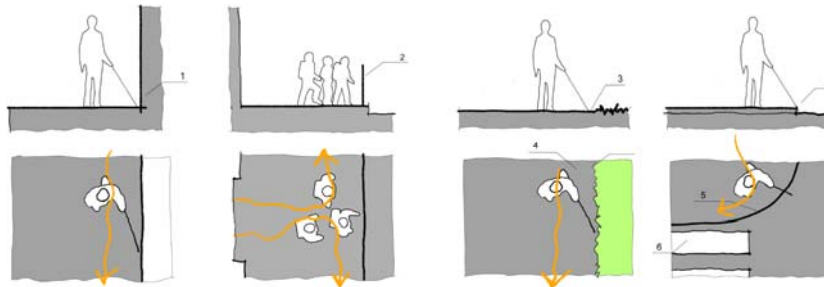
21

Impatto?



- Organizzazione di parchi, percorsi e aree all'aperto per l'orientamento ("wayfinding")
 - Alberi, ampiezza dei percorsi e illuminazione utilizzati come parametri.

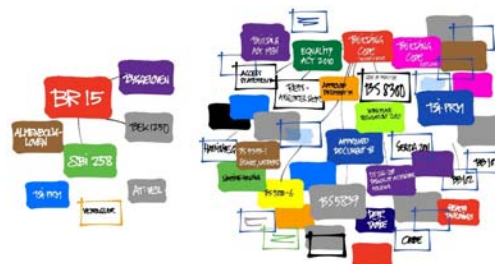
Impatto sul paesaggio urbano: aree pedonali?



- Applicazione normative nazionali
 - Esempio di elementi guida in aree pedonali

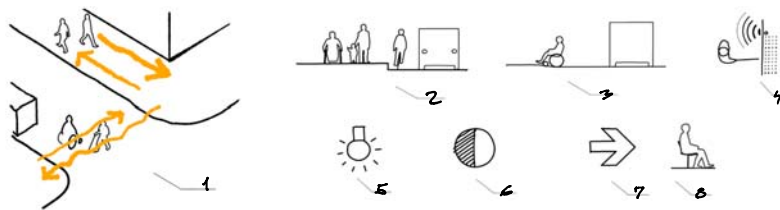
Esempio di ruolo delle norme EN negli Stati membri UE

- Strumento appalti pubblici per ambienti costruiti
 - Volontario
- Possibili valori comparativi di progettazione universale
 - Norme nazionali e regolamenti di edilizia, requisiti funzionali
- Possibile valore comparativo per
 - Requisiti tecnici nazionali
 - Procedure nazionali di valutazione
- Maggior livello di accessibilità?



Pausa prima del workshop

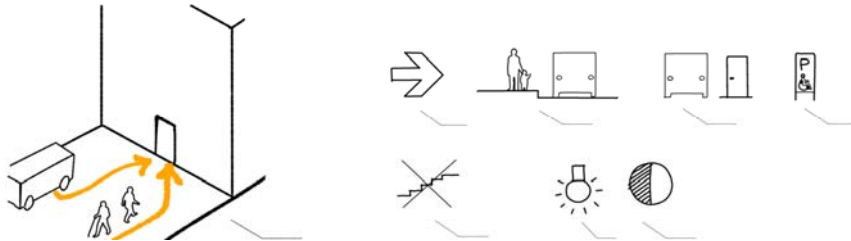
Workshop - Caso di studio 1 Impatto sulle aree pedonali, urbane?



Legenda figura

- 1 rappresentazione semplificata di aree pedonali e incroci stradali
- 2 aree pedonali e veicolari separate, per es. cordoli e guard rail
- 3 attraversamenti stradali senza gradino, per es. con cordolo inclinato a scivolo
- 4 elementi di guida tattile e acustica, per es. segnali acustici utilizzati nella circolazione stradale
- 5 buona illuminazione, per es. illuminazione di alto livello dei semafori
- 6 buon contrasto visivo, per es. i segni di colore bianco sulla superficie stradale
- 7 buona segnaletica, per es. segnali stradali con cifre e testi chiaramente leggibili, segnaletica direzionale
- 8 punti di sosta, per es. panchine a intervalli regolari lungo le aree pedonali

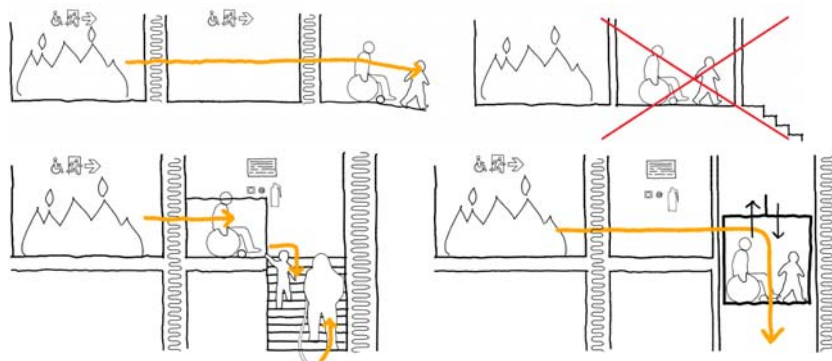
Workshop - Caso di studio 2 Impatto sull'approccio agli edifici?



Legenda figura

- 1 rappresentazione semplificata dell'approccio all'edificio
- 2 facile da localizzare, per es. visibile dalla strada di arrivo, buona segnaletica
- 3 via pedonali chiaramente separate da veicoli e ciclisti, per es. con separazione tramite cordolo o guard rail
- 4 brevi distanze da parcheggi e trasporti pubblici
- 5 parcheggi designati , per es. posti per auto, furgoni e biciclette
- 6 nessun gradino o ostacolo, per es. con accesso su stesso livello o tramite rampe
- 7 buona illuminazione, per es. con luci direzionali lungo i percorsi, anabbaglianti
- 8 buon contrasto visivo, per es. tra percorso e area adiacente

Workshop - Caso di studio 3 Evacuazione dagli edifici



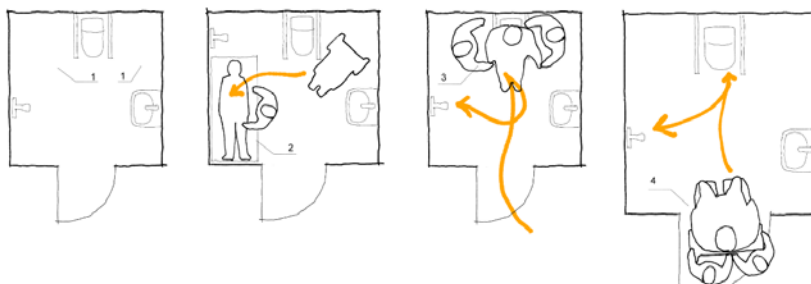
- Fino a dove si spingono gli obblighi per gli Stati membri?
 - Nessuna evacuazione?
 - Evacuazione assistita?
 - Evacuazione indipendente dagli edifici?

Workshop - Caso di studio 4 Servizi igienici?



- **Obblighi della toilette con progettazione universale**
 - In che modo gli Stati membri decidono riguardo alle soluzioni?

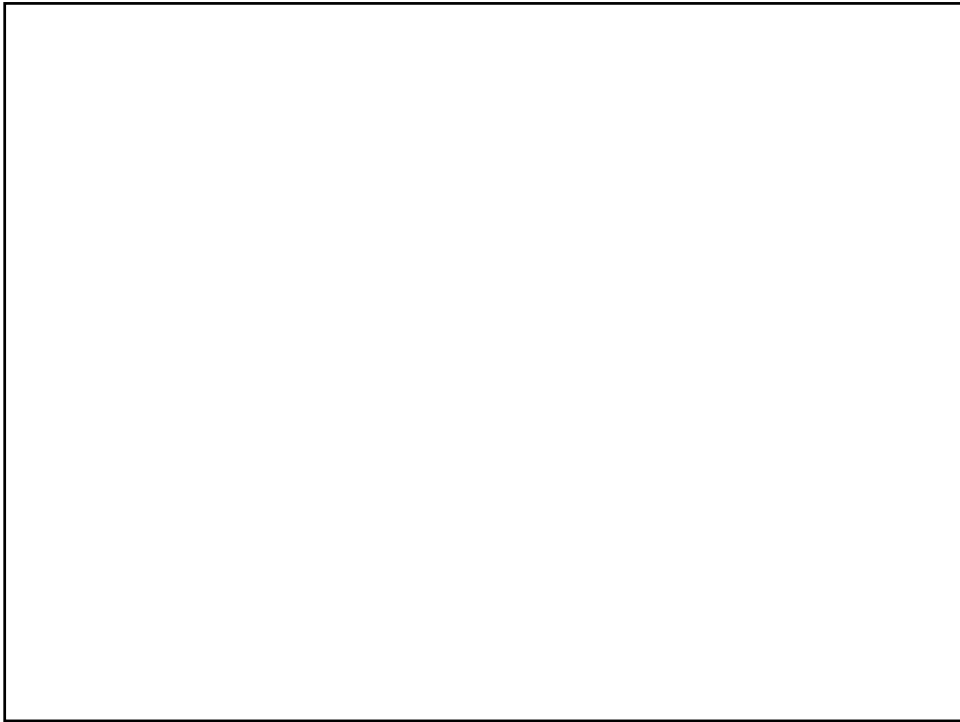
Workshop - Caso di studio 4 (seguito) Servizi igienici



Molte filosofie ed esigenze!

Legenda figura

1. Servizi igienici con spazio più ampio di manovra e doppio lato di accesso
2. Esempio di servizio con struttura di trasferimento dal dispositivo di mobilità a sdraiati su su tutta la lunghezza della panca, tramite dispositivo di sollevamento
3. Esempio di manovre assistite verso e da wc e doccia in servizi con maggior spazio disponibile
4. Esempio di servizio igienico utilizzabile da persona su carrozzina con due operatori che l'aiutano, in ospedale o altra struttura assistenziale





Accessibility of Information and Communication Technologies

Alejandro Moledo, EDF New Technologies and Innovation officer
EU Disability Law and the UNCRPD, Trier, 30 May 2017



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About the European Disability Forum

- Umbrella organisation
- 80 million Europeans with disabilities in Europe (15% EU population)
- Organisation **of** persons with disabilities, **run by** persons with disabilities
- Fight against discrimination and promote the Human Rights of persons with disabilities
- Full implementation of the UN Convention on the Rights of Persons with disabilities
- Advocacy organisation at European level
- Closely work with the European Union, the Council of Europe and the United Nations

ICT as key enabler for persons with disabilities (1/2)

- Gateway to social participation and independent living
- Overcome existing barriers
- More easily adaptable
- Mainstream and assistive technologies / solutions

Triple A conditions:

- available,
- affordable
- accessible

ICT as key enabler for persons with disabilities (2/2)

ITU – “[The ICT opportunity for a disability-inclusive development framework](#)”. The most valuable areas:

- Web
- Mobile
- Audiovisual media

Now everything converges!

Barriers:

- Cost of assistive technologies
- Lack of **accessible** ICT goods and services

Accessibility

- Non-discrimination
- Beneficial to all
- Is not black or white (nor a backyard entrance!)
- Soft approach to accessibility failed
- Accessibility is not sufficiently addressed in national legislations in many EU countries
- Legislation is essential and standards are needed, including on quality aspects
- Labels and raising awareness help
- Enforcement, monitoring and redress mechanism are essential
- Cost-effective when incorporated from the outset

EDF twin track approach to EU policy

1. Disability specific (empowerment):
 - Web Accessibility Directive
 - European Accessibility Act
2. Societal (mainstreaming disability)
 - Audiovisual Media Services Directive
 - European Electronic Communication Code (Directive)

Accessibility should be a core aspect of the ICT like privacy, data protection or security

UN CRPD & ICT

- 1st International Human Rights Treaty addressing ICT
- Ratified by the EU in 2010, and 27 Member States
- Article 3: Accessibility as a General Principle
- Article 9 on Accessibility “on an equal basis with others”, including to ICT
- Article 21 on Freedom of expression
- Article 30 on Participation on cultural life

See: [CRPD Committee General Comment n° 2](#)

In this presentation...

1. Web Accessibility Directive
2. European Accessibility Act
3. Audiovisual Media Services Directive
4. European Electronic Communication Code

Web Accessibility Directive

UN CRPD Article 21 on Freedom of expression:
“Urging private entities that provide services to the general public, **including through the Internet**, to provide information and services in accessible and usable formats for persons with disabilities”

What do we mean by web accessibility? 1/2

“Web accessibility means that people with disabilities can **use** the Web. More specifically, Web accessibility means that people with disabilities can perceive, understand, navigate, and interact with the Web, and that they can **contribute** to the Web. Web accessibility also benefits others, including older people with changing abilities due to aging” (World Wide Web Consortium, W3C)

4 Principles:

perceivable, understandable, operable and robust.

What do we mean by web accessibility? 2/2

1. Provide text equivalents
2. Organise and structure content
3. Do not depend on single sense
4. Ensure keyboard access
5. Give users enough time
6. Avoid interferences
7. Identify hyperlinks and contents
8. Use consistent navigation interfaces
9. Help users avoid mistakes
10. Ensure compatibility

[EDF e-resource on web accessibility](#)

Guidelines: [W3C Web Content Accessibility Guidelines 2.0](#)
Included in the [European Standard EN 301 549](#)

Benefits of web accessibility

- Equal opportunities for persons with and without disabilities
- Faster loading time
- Increased usability
- Reduced site development and maintenance time
- Better search engine indexation
- Wider compatibility
- Inclusive digitalisation
- Legal compliance

Require [W3C Web Content Accessibility Guidelines \(WCAG\) 2.0 level AA](#)

Strive for level AAA (or beyond)

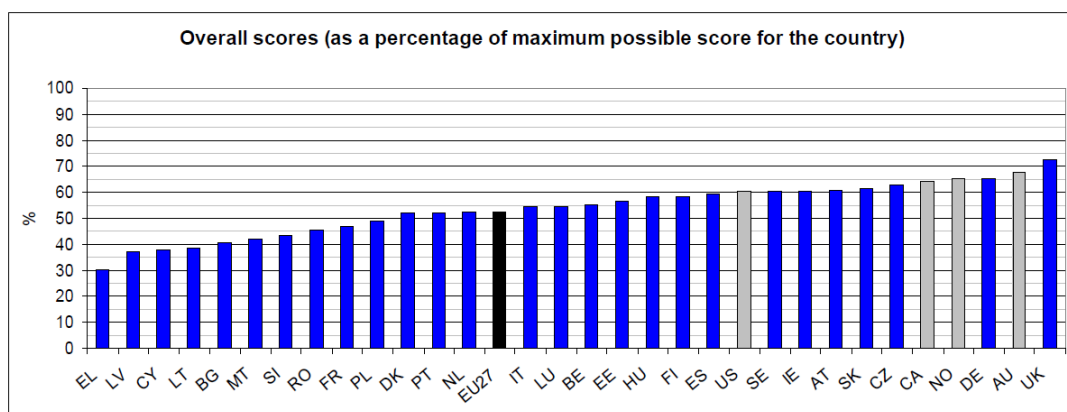


THE UNITED STATES
DEPARTMENT OF JUSTICE

Justice Department Enters into a Settlement Agreement with Peapod to Ensure that Peapod Grocery Delivery Website is Accessible to Individuals with Disabilities

November 17, 2014. Continue reading the news: <http://www.justice.gov/opa/pr/justice-department-enters-settlement-agreement-peapod-ensure-peapod-grocery-delivery-website>

Meanwhile in Europe...



Source: "Study on assessing and promoting e-accessibility", also known as [MeAC 3 study](#)

NEW! Directive on the accessibility of website and mobile applications of the public sector bodies (Web Accessibility Directive) (1/3)

- All public sector bodies websites and mobile apps
- Digital documents and online services
- Exceptions:
 - Public broadcasters websites
 - live audiovisual – to be made accessible in 14 days
 - Third party content
 - **May** exclude non-essential functions of schools, kindergartens and nurseries' websites and apps

NEW! Web Accessibility Directive (2/3)

- Disproportionate burden
- Web accessibility statement, including feedback mechanism with an on-demand service for inaccessible content
- Use of harmonised standard (web and mobile) – in absence of it: Common Technical Specifications for mobile apps – the [EN 301 549](#)
- Enforcement mechanism:
 - National authority with a complaint mechanism
 - Focal point for web accessibility (trainings, materials, contact with users' organisations, etc.)

NEW! [Web Accessibility Directive \(3/3\)](#)

- Regular monitoring (check [study on monitoring methodologies for web accessibility](#))
- Reporting to the Commission
- Transposition by 23 September 2018 (T-day):
 - Webs published after T-day will be accessible from 23 September 2019
 - Webs published before the T-day will be accessible from 23 September 2020
 - Apps will be accessible from 23 June 2021

European Accessibility Act

UN CRPD Article 9 Accessibility:

“State Parties shall also take appropriate measures (...) to ensure that **private entities** that offer facilities and services which are open or provided to the public take into account all aspects of accessibility for persons with disabilities”

Proposal for a European Accessibility Act

- Directive with legal base of Internal Market
- Mainstream products and services covered
- Disproportionate burden and fundamental alteration
- Use of harmonised standards or Common Technical Specifications
- Implementation and enforcement mechanisms by market surveillance authorities
- CE marking
- Functional specifications (accessibility requirements)

Scope of the European Accessibility Act

- Computers and operating systems
 - ATMs, ticketing and check-in machines
 - Telephony services and smartphones
 - Audiovisual media services and TVs
 - Services related to air, bus, rail and waterborne passenger transport
 - Banking services
 - e-books
 - e-commerce
- Complementing other EU legislations:**
- Public Procurement Directive
 - Structural Funds
 - Trans-European Transport Networks

EDF position

- Crucial step towards end-to-end accessibility
- Limited scope: Built environment, transport, household appliances
- Exemptions (Art. 12)
- Keep the CE-marking approach
- Participation of Disabled Persons' Organisations (DPOs)

EDF position regarding the accessibility requirements

- Find the gaps and propose the necessary additions to ensure that all aspects of products and services meet an adequate level of accessibility.
- Provide clarity to the proposed accessibility requirements.
- Allow further innovation through a functionality and technologically neutral approach.
- Ensure compatibility with assistive technologies

Example: Accessibility requirements for audiovisual services:

- Information about the functioning of the service and about its accessibility characteristics
- Content information
- Websites
- Information on complementarities with assistive services
- Functions, practices, policies and procedures and alterations in the operation of the service targeted to address the needs of persons with functional limitations

EDF proposed amendments for AV services:

- Information about the services also in the Electronic Programming Guide
- Include mobile applications
- Specific mention of the four main access services: subtitles for the deaf and hard of hearing, audio description, spoken subtitles and sign language interpretation
- Quality aspects: Ex: “Service providers shall ensure that audio description and spoken subtitles are well synchronized with the video. This includes setting up quality specifications related to audio placement and clarity of the audio description and spoken subtitles, as well as the necessary requirements to ensure users’ control over them”.

Example: accessibility requirements for TVs

- Information on the product, on and in the package
- Interfacing of the product with assistive devices
- User interface and functionalities:
 - provide for communication and orientation via more than one sensory channel
 - provide for flexible magnification and contrast;
 - provide for flexible ways to separate and control foreground from background including for reducing background noise and improve clarity
 - provide avoidance of triggering photosensitive seizures
 - Etc.

EDF proposed amendments for TVs:

- Information also in accessible digital formats
- Further details for the user interface (based on the EN 301 549 and the US Section 508 of the Rehabilitation Act)
- Mechanism to display SDH, select and play AD and spoken subtitles and, where technically possible, display closed sign language interpretation on top
- Access services singly or in combination
- Personalization to the greatest extent possible
- Control: same level of prominence as the primary media controls
- Effective wireless coupling to hearing technologies
- Support services

Audiovisual Media Services Directive

UN CRPD Article 30 Participation in cultural life, recreation, leisure and sport:

“States Parties recognize the right of persons with disabilities to take part on an equal basis with others in cultural life, and shall take all appropriate measures to ensure that persons with disabilities: (...) enjoy access to **television programmes**, films, theatre and other cultural activities, in accessible formats”.

Audiovisual Media Services Directive

- Adopted in 2007
- TV broadcasting + on demand services (VOD)
- Operators established in the EU
- Commercial communications
- User protection and prohibition of hate speech and discrimination
- Protection of minors
- Promote EU audiovisual content
- Coordination of regulators

Audiovisual Media Services Directive

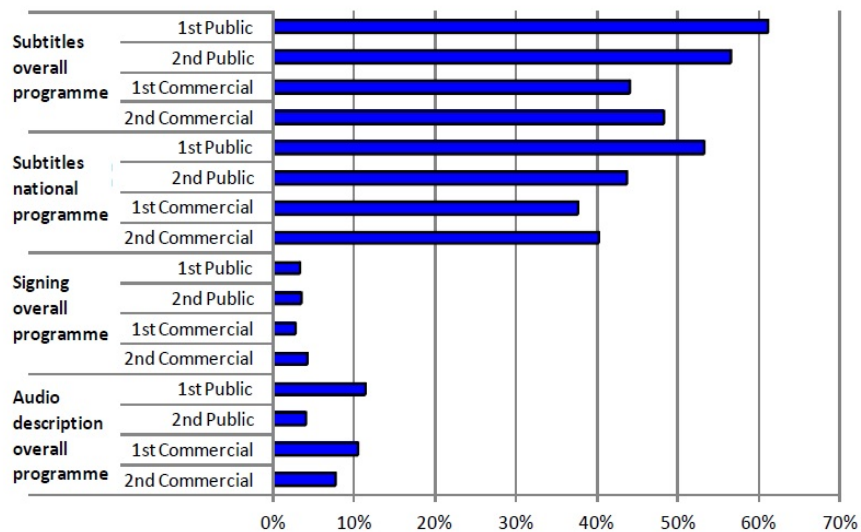
Recital 46: (...)The means to achieve accessibility should include, but need not be limited to, sign language, subtitling, audio-description and easily understandable menu navigation

Article 7. “Member States shall **encourage** media service providers under their jurisdiction to ensure that their services are gradually made accessible to people with a visual or hearing disability”

Article 9.c(ii): anti discrimination on the grounds of disability in commercial communications

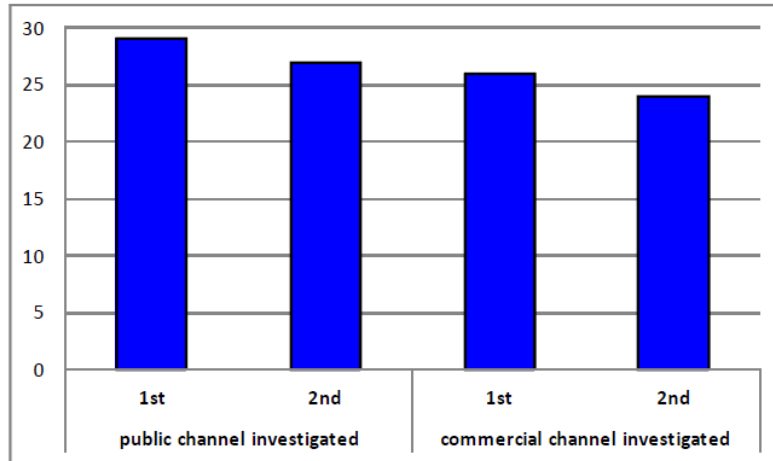
MeAC 3 study – November 2013

Figure 4-2 Average share of programmes with access services in the overall programme across all countries included in the study



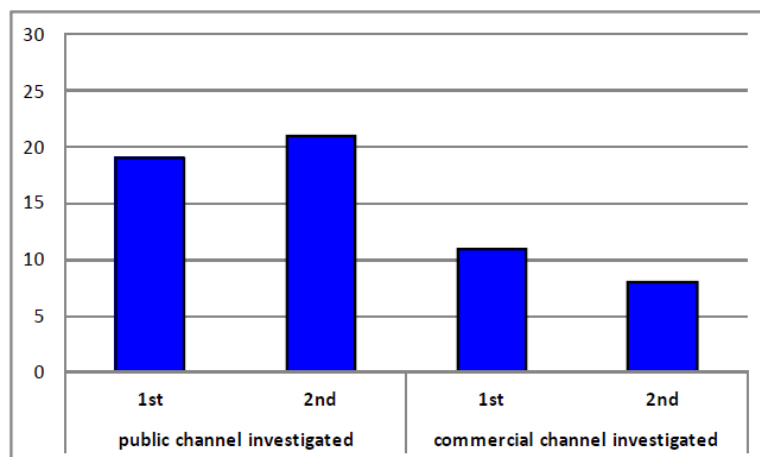
MeAC 3 study – November 2013

Figure 4-1 No. of countries with any subtitling (n=31)



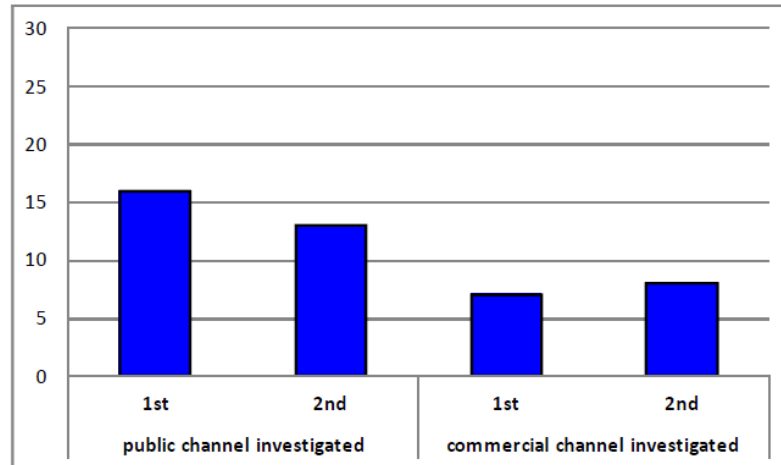
MeAC 3 study – November 2013

Figure 4-3 No of countries with any signing (n=31)



MeAC 3 study – November 2013

Figure 4-4 No. of countries with any audio description (n=31)



What is the overall situation?

- Implementation of art. 7 differs broadly
- Commercial channels lagging behind
- Video on-demand less accessible
- Electronic Programme Guides (EPG) inaccessible
- Online platforms not enabling access services
- More devices enabling access services but no accessible content to render
- [EDF answer](#) to the 2015 public consultation

AVMSD revision and confusion in the EU

- The Commission removes article 7 because of the European Accessibility Act
- The Culture Committee in the European Parliament proposes to remove Audiovisual Services and e-books from the European Accessibility Act
 - They prefer “sectorial” legislation to improve access to Audiovisual Services and to preserve media diversity
- Council prefers sectorial legislation (AVMSD) to strengthen accessibility
- Industry (public and commercial broadcasters) prefer to keep article 7 as it was in 2010

AVMSD revision and mess in the EU institutions

- EDF position:
 - The “what” in the AVMSD
 - The “how” in the Accessibility Act
- Rapporteurs encouraged EDF and public and commercial broadcasters to find agreement
- Council willing to accept: “Member States shall **ensure** media service providers under their jurisdiction to ensure that their services are gradually made accessible to people with a visual or hearing disability”

EDF-EBU-ACT agreement on AVMSD article 7

1. Member States to adopt measures at national level in consultation with persons with disabilities to ensure audiovisual media providers make their services progressively accessible for persons with disabilities
2. The Commission and ERGA (European body of regulatory authorities) to exchange practices, notably on common pictograms and quality aspects
3. Audiovisual media providers to report annually on progress made in respect of making their services accessible

EDF-EBU-ACT agreement on AVMSD article 7

4. Encourage audiovisual media providers to adopt accessibility action plans
5. Member states shall ensure accessible emergency information
6. Encourage audiovisual media providers aim, through their content production, programming, editorial policies, and training schemes, to deliver access services

Recital:

- article 7 only applies to audiovisual services, namely programmes.
- Access services: SDH, AD, spoken subtitles and SL

Electronic Communications

UN CRPD Article 9 on Accessibility:

“Information, communications and other services, including **electronic services and emergency services**”

The EU framework

- The [Framework Directive](#) is based on the [Framework Directive 2002/21/EC](#) and the [Better Regulation Directive 2009/140/EC](#)
- The [Access Directive](#) is based on the [Access Directive 2002/19/EC](#) and the [Better Regulation Directive 2009/140/EC](#)
- The [Authorisation Directive](#) is based on the [Authorisation Directive 2002/20/EC](#) and the [Better Regulation Directive 2009/140/EC](#)
- The **[Universal Service Directive](#)** is based on the [Universal Service Directive 2002/22/EC](#) and the [Citizens' Rights Directive 2009/136/EC](#)

The EU framework

2009 revision – success of the disability movement

- Good example of mainstreaming disability in EU legislation
- Follows the UN CRPD

Article 23a of the Universal Service Directive

Equal access and choice to, and affordability of:

- Electronic communication services “equivalent to that enjoyed by the majority of end-users”
- Terminal equipment

However...

[MeAC study](#) – November 2013

Figure 3-3 No. of countries in which a relay service is available (n=31)

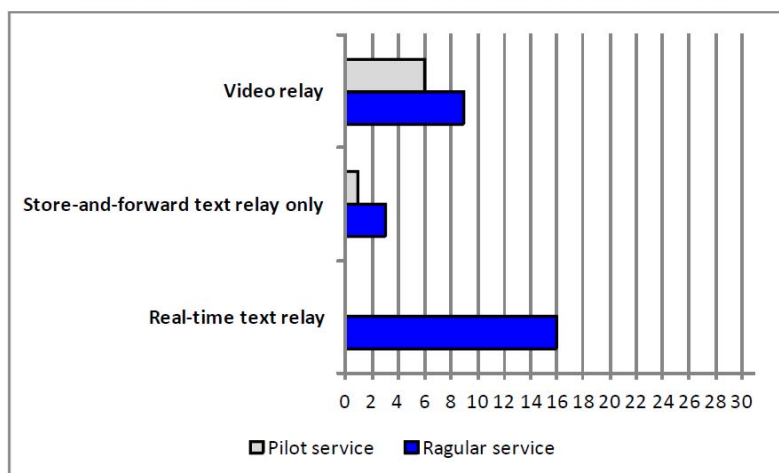
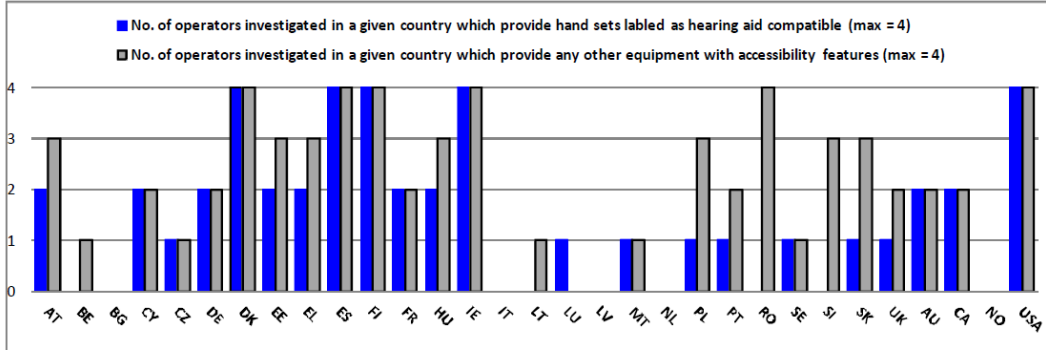
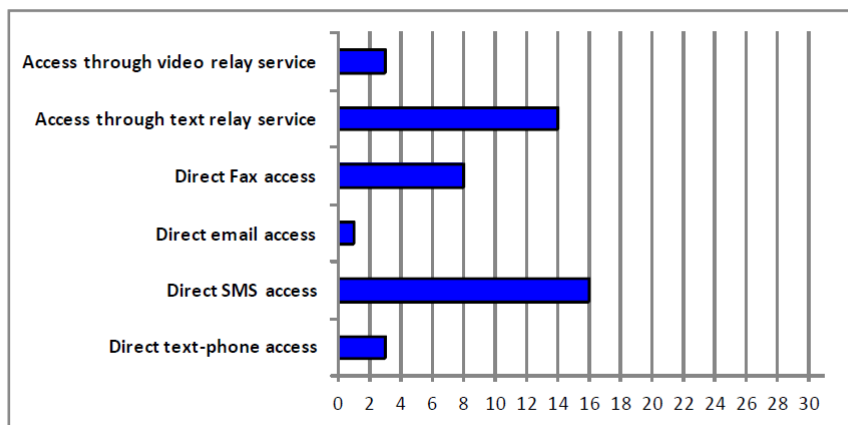


Figure 3-5 No. of telecoms operators offering accessible end user equipment per country



Note: The two main fixed line operators and two mobile operators were investigated in each country.

Figure 3-6 No. of countries where access to emergency services is provided by alternative communication modes (n=31)



Note: More than one access option may exist in a given country

MeAC 3 conclusions:

- Progress in recent years
- Room for improvement in both access and choice
- Considerable variation across Member States

More updated and detailed information is available at:

[BEREC - 2015 report on equal access and choice](#)

Further barriers encountered by EDF members:

- Lack of interoperability and common approach (e.g. RTT, emergency services)
- PwD living in remote areas – less choice of accessible services and/or not aware of their availability
- Lack of accessible mainstream products
- Lack of involvement of organisations representing persons with disabilities in the NRA's - some too business-oriented
- Non-accessible information, e.g. websites of Telecoms providers – no requirement by NRA's
- NRA's lack of guidance for users and providers in understanding accessibility provisions
- Lack of regular monitoring regarding accessibility

European Electronic Communication Code (EECC) Recast

- Amends and merges in one single Directive the 2009 Telecoms Package
- Removes legacy universal services (e.g. public payphones, telephony directories) and focus on:
 - Voice communication
 - Functional internet connection (list of online services)
- Keeps obligations in regards to affordability
- Keeps obligations in regards to equal access and choice for persons with disabilities, including to 112 services
- Removes obligations in regards to terminal equipment
- Mentions video relay and total conversation services in recital 14

EDF general objectives

1. Equal access and choice for end-users with disabilities
2. Availability and interoperability of Total Conversation (voice, video and RTT) across the EU
 - It's not about voice communication anymore! Real Time Text (RTT), another way of calling, [a reality in the US](#)
2. Availability, affordability and compatibility of
 - Text relay services
 - Video relay services
 - Assistive technologies
3. Affordability of electronic communication services
4. 112 and 116000 services on equal basis with others
5. Must carry obligations for TV access services

EECC vs EAA:

EECC	EAA
Availability & affordability of <u>special</u> equipment	Accessibility requirements for <u>mainstream</u> products (smartphones). E.g. able to support Total Conversation
Availability & affordability of <u>Universal Services obligations</u> + Total Conversation + TRS and VRS Accessible 112 services across EU	<u>Harmonised functional accessibility</u> requirements for those
Interoperability for RTT and video call through NRA action	Interoperability for RTT through <u>Harmonised Standards (preferred)</u>
NRA's tasks regarding equal access and choice for end-users with disabilities	Accessible Information, websites and mobile apps of electronic communication providers



THANK YOU

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Accessibilità alle tecnologie dell'informazione e della comunicazione

Alejandro Moledo, Amministratore di innovazione e nuove tecnologie, Forum Europeo della disabilità

Il diritto dell'UE sulla disabilità e la UNCRPD, Treviri, 30 maggio 2017



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A proposito del Forum europeo della disabilità

- Organizzazione ombrello
- In Europa, 80 milioni di cittadini con disabilità (15% della popolazione UE)
- Organizzazione **di** persone con disabilità, **gestita da** persone con disabilità
- Lotta contro la discriminazione e promuove i diritti umani delle persone con disabilità
- Piena attuazione della Convenzione ONU sui diritti delle persone con disabilità
- Organizzazione attivista a livello europeo
- Collabora strettamente con l'Unione europea, il Consiglio d'Europa e le Nazioni Unite

Le TIC come fattore chiave a favore delle persone con disabilità (1/2)

- Porta d'accesso alla partecipazione sociale e alla vita indipendente
- Per superare le barriere esistenti
- Più facilmente adattabili
- Tecnologie/soluzioni tradizionali e assistive

Tre condizioni

- disponibili
- economicamente accessibili
- fisicamente accessibili

Le TIC come fattore chiave a favore delle persone con disabilità (2/2)

ITU – [“L'opportunità TIC per un quadro di sviluppo inclusivo della disabilità”](#). Settori più importanti:

- Internet
- Dispositivi mobili
- Media audiovisivi

Ora tutto converge!

Barriere:

- Costo delle tecnologie assistive
- Mancanza di beni e servizi TIC **accessibili**

Accessibilità

- Non discriminazione
- Vantaggio per tutti
- Non è bianco o nero (né una via d'entrata dal retro!)
- Approccio morbido all'accessibilità fallito
- L'accessibilità non viene sufficientemente contemplata nelle legislazioni nazionali di molti Paesi UE
- La legislazione è essenziale e le norme sono necessarie, anche in materia di qualità
- Etichette e consapevolezza sono di aiuto
- È fondamentale attuare meccanismi di imposizione, monitoraggio e risarcimento
- Efficacia dei costi garantita se tali elementi incorporati sin dall'inizio

Approccio a duplice strategia EDF nei confronti della politica UE

1. Specifico alla disabilità (conferimento di capacità)
 - Direttiva sull'accessibilità del web
 - Legge europea sull'accessibilità
2. Sociale (integrazione della disabilità)
 - Direttiva sui servizi di media audiovisivi
 - Codice europeo delle comunicazioni elettroniche (direttiva)

L'accessibilità deve essere un aspetto fondamentale delle TIC come la privacy, la sicurezza o la protezione dei dati

UNCRPD e TIC

- 1° Trattato internazionale sui diritti umani che contempla le TIC
- Ratificato dall'UE nel 2010, e da 27 Stati membri
- Articolo 3: Accessibilità come principio generale
- Articolo 9 sull'accessibilità “su base di eguaglianza con gli altri”, comprese le TIC
- Articolo 21 sulla libertà di espressione
- Articolo 30 sulla partecipazione alla vita culturale

Cfr. [CRPD Comitato Commento generale n. 2](#)

In questa presentazione...

1. Direttiva sull'accessibilità del web
2. Legge europea sull'accessibilità
3. Direttiva sui servizi di media audiovisivi
4. Codice europeo delle comunicazioni elettroniche (direttiva)

Direttiva sull'accessibilità del web

Articolo 21 UNCRPD sulla libertà di espressione:
“Invitano gli enti privati che forniscono servizi al grande pubblico, **anche attraverso Internet**, a fornire informazioni e servizi con sistemi accessibili e utilizzabili dalle persone con disabilità”

Cosa si intende per accessibilità del web? 1/2

“Accessibilità significa che le persone con disabilità possono **usare** il Web. Più specificamente, accessibilità del web significa che le persone con disabilità possono percepire, comprendere, navigare, interagire con il web e **contribuire** ad esso. L'accessibilità del web va anche a vantaggio di altri, comprese le persone anziane, le cui capacità cambiano con l'avanzare dell'età” (World Wide Web Consortium, W3C)

4 Principi:

percepibile, comprensibile, funzionale e robusto.

Cosa si intende per accessibilità del web?

2/2

1. Fornire equivalenti testuali
2. Organizzare e strutturare il contenuto
3. Non dipendere da un'unica percezione sensoriale
4. Garantire l'accesso alle tastiere
5. Concedere all'utente il tempo necessario
6. Evitare interferenze
7. Individuare hyperlink e contenuti
8. Utilizzare interfacce coerenti di navigazione
9. Aiutare gli utenti a evitare gli errori
10. Garantire la compatibilità

[Risorse elettroniche EDF sull'accessibilità del web](#)

Linee guida: [linee guida 2.0 W3C di accessibilità dei contenuti web](#) Incluse nella [norma europea 301 549](#)

Vantaggi dell'accessibilità del web

- Pari opportunità sia per le persone con disabilità che senza disabilità
- Tempi ridotti di caricamento
- Migliore usabilità
- Riduzione di sviluppo del sito e dei tempi di manutenzione
- Migliore indicizzazione del motore di ricerca
- Maggiore compatibilità
- Digitalizzazione inclusiva
- Conformità giuridica

Richiedere [le linee guida W3C \(WCAG\) 2.0 livello AA sull'accessibilità dei contenuti Web](#)

Impegnarsi per ottenere il livello AAA (o superiore)



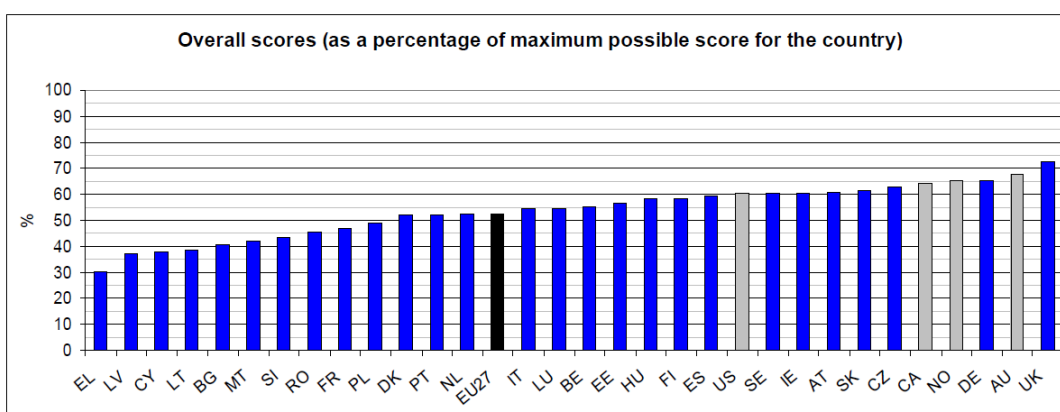
THE UNITED STATES
DEPARTMENT OF JUSTICE

Il dipartimento di giustizia sigla un accordo con l'azienda Peapod per garantire l'accessibilità, alle persone con disabilità, del sito Internet di consegna della spesa dei negozi dell'azienda

17 novembre 2014. Per saperne di più:

<http://www.justice.gov/opa/pr/justice-department-enters-settlement-agreement-peapod-ensure-peapod-grocery-delivery-website>

Nel frattempo, in Europa...



Fonte: "Studio di valutazione e promozione dell'accessibilità elettronica", noto anche come [studio MeAC 3](#)

NOVITÀ! [Direttiva relativa all'accessibilità dei siti web e delle applicazioni mobili degli enti pubblici \(direttiva sull'accessibilità del web\) \(1/3\)](#)

- Tutti i siti web e le applicazioni mobili degli enti pubblici
- Documenti digitali e servizi online
- Eccezioni
 - Siti web delle emittenti pubbliche
 - Audiovisivi in diretta – da rendere accessibili in 14 giorni
 - Contenuti di terzi
 - **Potrebbe** escludere funzioni non essenziali di siti web e applicazioni di scuole elementari, scuole materne e asili nido

NOVITÀ! [Direttiva sull'accessibilità del web \(2/3\)](#)

- Onere finanziario sproporzionato
- Dichiarazione di accessibilità del web, compreso un meccanismo di feedback con servizio on-demand per il contenuto inaccessibile
- Utilizzo di una norma armonizzata (siti web e applicazioni mobili) – in mancanza: Specifiche tecniche comuni per applicazioni mobili – [EN 301 549](#)
- Meccanismo di attuazione:
 - Autorità nazionale con meccanismo di conformità
 - Punto focale per l'accessibilità del web (formazione, materiali, contatto con le organizzazioni degli utenti, ecc.)

NOVITÀ! [Direttiva sull'accessibilità del web \(3/3\)](#)

-Monitoraggio regolare ([studio di controllo sulle metodologie di monitoraggio riguardanti l'accessibilità del web](#))

-Reportistica alla Commissione

-Trasposizione entro il 23 settembre 2018 ("T-day"):

- I contenuti web pubblicati dopo il T-day saranno accessibili dal 23 settembre 2019
- I contenuti web pubblicati prima del T-day saranno accessibili dal 23 settembre 2020
- Le applicazioni saranno accessibili dal 23 giugno 2021

Legge europea sull'accessibilità

Articolo 9 UNCRPD sull'accessibilità:

“Gli Stati Parti inoltre dovranno prendere appropriate misure (...) per assicurare che gli **enti privati**, i quali forniscono strutture e servizi che sono aperti o offerti al pubblico, tengano conto di tutti gli aspetti dell'accessibilità per le persone con disabilità”

Proposta per una legge europea sull'accessibilità

- Direttiva con base giuridica del mercato interno
- Che contempra prodotti e servizi destinati al grande pubblico
- Onere sproporzionato e alterazione sostanziale
- Utilizzo di norme armonizzate o di specifiche tecniche comuni
- Meccanismi di attuazione e applicazione da parte delle autorità di vigilanza del mercato
- Marcatura CE
- Specifiche funzionali (requisiti di accessibilità)

Ambito della legge europea sull'accessibilità

- Computer e sistemi operativi
 - ATM, biglietterie automatiche e macchine per il check-in
 - Servizi di telefonia e smartphone
 - Servizi di media audiovisivi e TV
 - Servizi riguardanti il trasporto passeggeri per via aerea, navigabile, bus o ferroviaria
 - Servizi bancari
 - e-book
 - commercio elettronico
- Integrazione con altre normative UE:**
- Direttiva sugli appalti pubblici
 - Fondi strutturali
 - Reti di trasporto transeuropee

Posizione EDF

- Passo fondamentale verso l'accessibilità end-to-end
- Ambito limitato: ambiente costruito, trasporti, elettrodomestici
- Esenzioni (art. 12)
- Mantenimento dell'approccio di marcatura CE
- Partecipazione delle organizzazioni di persone disabili (DPO)

Posizione EDF in merito ai requisiti di accessibilità

- Individuare le lacune e proporre le necessarie integrazioni per far sì che tutti gli aspetti di prodotti e servizi soddisfino un livello appropriato di accessibilità.
- Rendere chiari i requisiti di accessibilità proposti.
- Favorire l'innovazione ulteriore attraverso un approccio di funzionalità e tecnologicamente neutrale.
- Garantire la compatibilità con le tecnologie assistive

Esempio: Requisiti di accessibilità per i servizi audiovisivi:

- Informazione sul funzionamento del servizio e sulle caratteristiche di accessibilità
- Informazione del contenuto
- Siti web
- Informazione sulle complementarietà dei servizi assistivi
- Funzioni, pratiche, politiche e procedure e alterazioni nel funzionamento del servizio destinato a soddisfare le esigenze delle persone con limitazioni funzionali

Emendamenti EDF proposti per i servizi AV:

- Informazione sui servizi anche nella guida elettronica ai programmi
- Include le applicazioni mobili
- Menzione specifica dei quattro principali servizi di accesso: sottotitoli per sordi e audiolesi, audiodescrizione, sottotitoli parlati e interpretazione nel linguaggio dei segni
- Aspetti di qualità. Es.: "I fornitori dei servizi devono far sì che audiodescrizione e sottotitoli parlati siano ben sincronizzati con i contenuti video. Ciò include la definizione di specifiche di qualità relative al posizionamento dell'audio e alla chiarezza dell'audiodescrizione e dei sottotitoli parlati, nonché i requisiti necessari per garantire il loro controllo da parte degli utenti"

Esempio: Requisiti di accessibilità per i televisori (TV)

- Informazione sul prodotto, sia sull'imballaggio che al suo interno
- Interfacciare il prodotto con dispositivi assistivi
- Funzionalità e interfaccia utente:
 - fornire comunicazione e orientamento attraverso più di un canale sensoriale
 - fornire forme flessibili di ingrandimento e contrasto;
 - fornire modalità flessibili per separare e controllare il primo piano dallo sfondo, compresa la riduzione del rumore di fondo e il miglioramento della nitidezza
 - evitare di generare crisi fotosensibili
 - Ecc.

Emendamenti EDF proposti per i TV:

- Informazioni anche in formati digitali accessibili
- Ulteriori dettagli per l'interfaccia utente (basati sulla norma EN 301 549 e sulla sezione 508 del "Rehabilitation Act", legge statunitense sul reinserimento)
- Meccanismo per visualizzare i sottotitoli per sordi e audiolesi (SDH), selezionare e attivare i dispositivi assistivi e i sottotitoli parlati, oltre che, se tecnicamente possibile, visualizzare in un riquadro alto l'interpretazione nel linguaggio dei segni
- Accedere ai servizi singolarmente o in combinazione
- Personalizzazione al massimo grado possibile
- Controllo: stesso livello di prominenza dei controlli dei media primari
- Efficace accoppiamento wireless alle tecnologie acustiche
- Servizi di supporto

Direttiva sui servizi di media audiovisivi

Articolo 30 UNCRPD Partecipazione alla vita culturale, alle attività ricreative, al tempo libero e allo sport:

“Gli Stati contraenti riconoscono il diritto delle persone con disabilità a prendere parte su base di eguaglianza con gli altri alla vita culturale e dovranno prendere tutte le misure appropriate per assicurare che le persone con disabilità: (...) abbiano accesso a **programmi televisivi**, film, teatro e altre attività culturali, in forme accessibili”.

Direttiva sui servizi di media audiovisivi (AVMSD)

- Adottata nel 2007
- Trasmissione televisiva + servizi on demand (VOD)
- Operatori stabiliti nell'UE
- Comunicazioni commerciali
- Tutela dell'utente e divieto delle espressioni di odio e di discriminazione
- Protezione dei minori
- Promozione dei contenuti audiovisivi UE
- Coordinamento delle autorità di regolamentazione

Direttiva sui servizi di media audiovisivi (AVMSD)

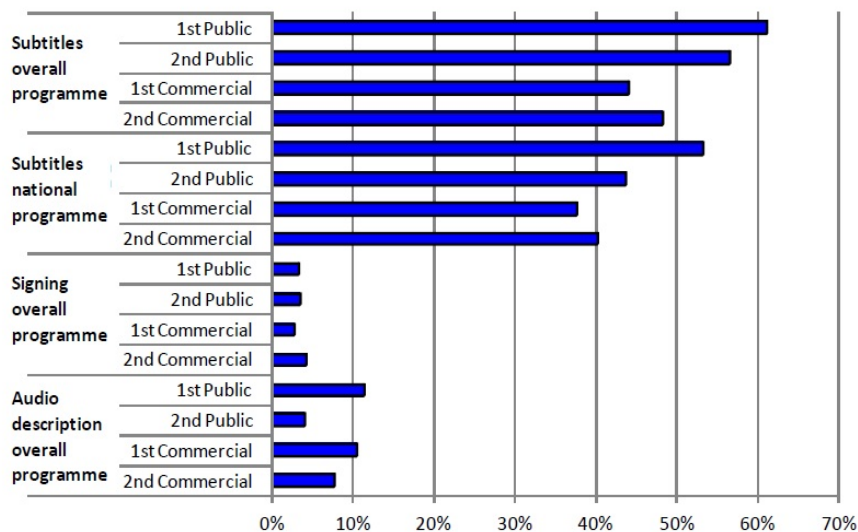
Considerando 46: (...) I mezzi per ottenere tale accessibilità dovrebbero comprendere, tra gli altri, il linguaggio dei segni, la sottotitolazione, l'audiodescrizione e la navigazione tra menu di facile comprensione

Articolo 7. "Gli Stati membri **incoraggiano** i fornitori di servizi di media soggetti alla loro giurisdizione a garantire che i loro servizi diventino gradualmente accessibili per le persone con disabilità visiva o uditiva"

Articolo 9.c (ii): contro la discriminazione basata sulla disabilità nelle comunicazioni commerciali

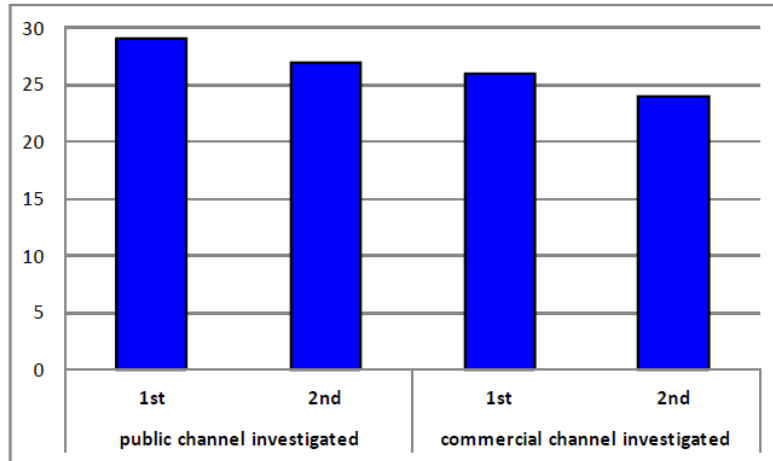
Studio MeAC 3 – Novembre 2013

Figure 4-2 Average share of programmes with access services in the overall programme across all countries included in the study



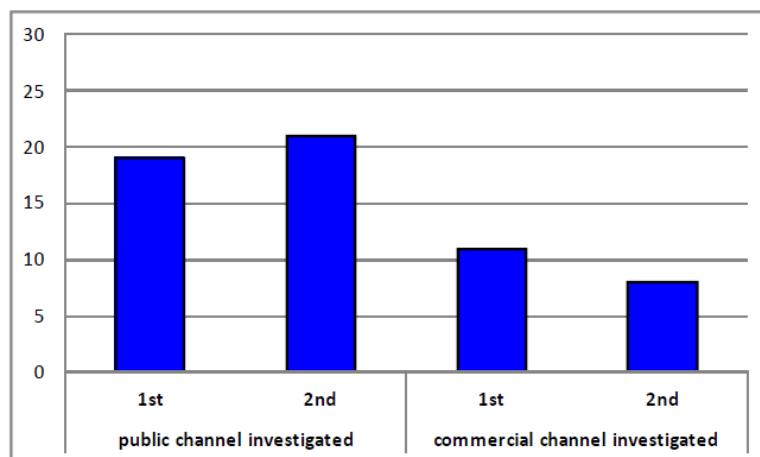
Studio MeAC 3– Novembre 2013

Figure 4-1 No. of countries with any subtitling (n=31)



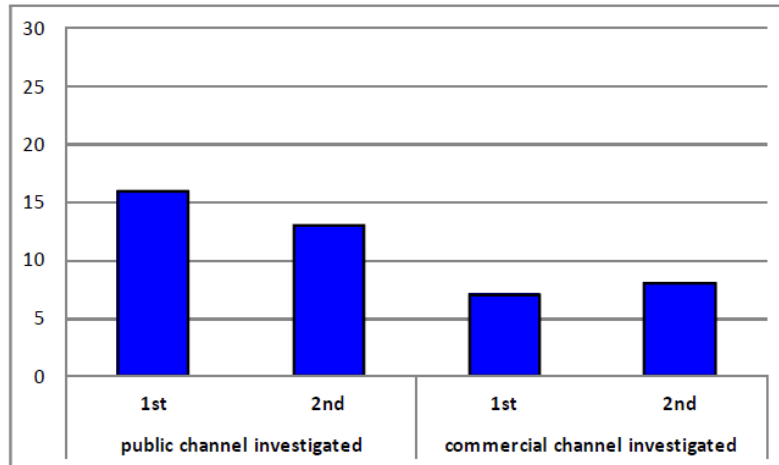
Studio MeAC 3– Novembre 2013

Figure 4-3 No of countries with any signing (n=31)



Studio MeAC 3– Novembre 2013

Figure 4-4 No. of countries with any audio description (n=31)



Com'è la situazione complessiva?

- L'attuazione dell'art. 7 differisce molto.
- Canali commerciali in ritardo
- Video on-demand meno accessibile
- Guida elettronica ai programmi (EPG) inaccessibile
- Piattaforme online che non attuano servizi di accesso
- Più dispositivi che offrono servizi di accesso ma privi di contenuti accessibili
- [Risposta EDF](#) alla consultazione pubblica 2015

Revisione AVMSD e confusione nell'UE

- La Commissione elimina l'articolo 7 a causa della legge europea sull'accessibilità
- La Commissione Cultura del Parlamento europeo propone di eliminare i servizi audiovisivi e gli e-book dalla legge europea sull'accessibilità
 - Essa preferisce una legislazione "settoriale" per migliorare l'accesso ai servizi audiovisivi e preservare la diversità dei media
- Il Consiglio preferisce una legislazione settoriale (AVMSD) per rafforzare l'accessibilità
- L'industria (emittenti radiotelevisive pubbliche e commerciali) preferisce mantenere l'articolo 7 come era nel 2010

Revisione AVMSD e pasticcio nelle istituzioni UE

-Posizione EDF:

- Il "cosa" nell'AVMSD
- Il "come" nella legge sull'accessibilità
- I relatori hanno incoraggiato EDF e i servizi radiotelevisivi pubblici e commerciali a trovare un accordo
- Consiglio intenzionato ad accettare: "Gli Stati membri **assicurano** che i fornitori di servizi di media soggetti alla loro giurisdizione garantiscano servizi che siano resi gradualmente accessibili alle persone con disabilità visiva o uditiva"

EDF-EBU-ACT: accordo sull'articolo 7 AVMSD

1. Gli Stati membri devono adottare misure a livello nazionale, in consultazione con le persone con disabilità, per assicurare che i fornitori di media audiovisivi offrano servizi gradualmente accessibili alle persone con disabilità

2. La Commissione e l'ERGA (Gruppo dei regolatori europei per i servizi di media audiovisivi) devono scambiare pratiche, segnatamente in materia di aspetti di qualità e pittogrammi comuni

3. I fornitori di media audiovisivi devono riferire annualmente sui progressi realizzati nel rendere accessibili i loro servizi

EDF-EBU-ACT: accordo sull'articolo 7 AVMSD

4. Incoraggiare i fornitori di media audiovisivi ad adottare piani d'azione per l'accessibilità

5. Gli Stati membri dovranno garantire informazioni di emergenza accessibili

6. Incoraggiare i fornitori di media audiovisivi affinché si propongano di fornire servizi di accesso, tramite loro produzione di contenuti, programmazioni, politiche editoriali e sistemi di formazione

Considerando:

- l'articolo 7 si applica solo ai servizi audiovisivi, segnatamente i programmi
- servizi di accesso: sottotitoli per sordi e audiolesi (SDH), dispositivi assistivi (AD), sottotitoli parlanti e linguaggio dei segni

Comunicazioni elettroniche

Articolo 9 UNCRPD sull'accessibilità:

“Servizi di informazione, comunicazione e di altra natura, compresi i **servizi elettronici e quelli di emergenza**”

Il quadro UE

- La [direttiva quadro](#) si basa sulla [direttiva quadro 2002/21/CE](#) e sulla [direttiva "legiferare meglio" 2009/140/CE](#)
- La [direttiva accesso](#) si basa sulla [direttiva accesso 2002/19/CE](#) e sulla [direttiva "legiferare meglio" 2009/140/CE](#)
- La [direttiva autorizzazione](#) si basa sulla [direttiva autorizzazione 2002/20/CE](#) e sulla [direttiva "legiferare meglio" 2009/140/CE](#)
- La [direttiva servizio universale](#) si basa sulla [direttiva servizio universale 2002/22/CE](#) e la [direttiva sui diritti dei cittadini 2009/136/CE](#)

Il quadro UE

Revisione 2009 – successo del movimento dei disabili

- Buon esempio di integrazione della disabilità nella legislazione UE
- Segue l'UNCRPD

Articolo 23 a) della direttiva servizio universale

Parità di accesso a, scelta e accessibilità economica di:

- Accesso ai servizi di comunicazione elettronica "equivalente a quello della maggior parte degli utenti finali"
- Apparecchiature terminali

Tuttavia...

[Studio MeAC 3](#) – Novembre 2013

Figure 3-3 No. of countries in which a relay service is available (n=31)

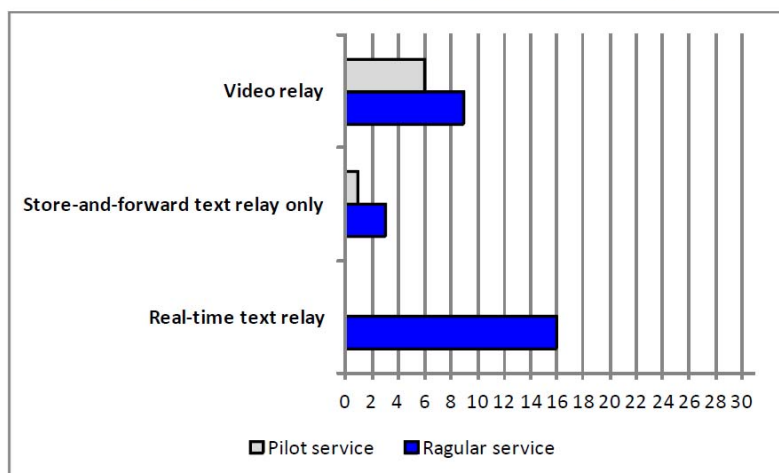
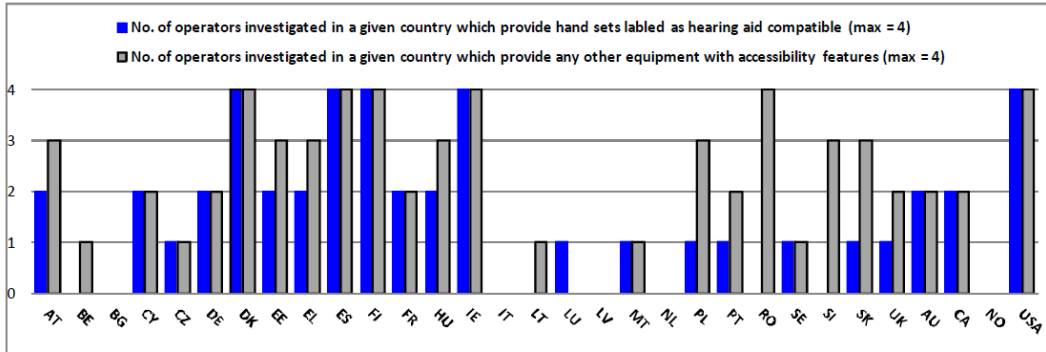
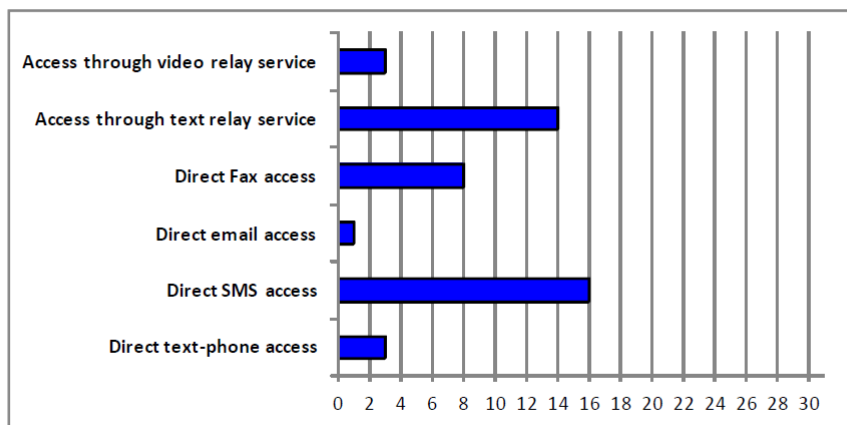


Figure 3-5 No. of telecoms operators offering accessible end user equipment per country



Note: The two main fixed line operators and two mobile operators were investigated in each country.

Figure 3-6 No. of countries where access to emergency services is provided by alternative communication modes (n=31)



Note: More than one access option may exist in a given country

Conclusioni MeAC 3:

- Progressi compiuti negli ultimi anni
- Margini di miglioramento sia a livello di accesso che di scelta
- Notevoli differenze fra Stati membri

Informazioni più aggiornate e dettagliate disponibili su:

[rapporto BEREC - 2015 sulla parità di accesso e di scelta](#)

Altre barriere incontrate dai membri EDF:

- Mancanza di interoperabilità e approccio comune (per es. RTT, servizi di emergenza)
- Persone con disabilità che vivono in zone remote – scelta ridotta di servizi accessibili e/o mancata conoscenza della loro disponibilità
- Mancanza di prodotti accessibili al grande pubblico
- Mancanza di coinvolgimento delle organizzazioni che rappresentano le persone con disabilità all'interno delle autorità nazionali di regolamentazione (ANR) - alcune troppo orientate al mercato
- Informazioni non accessibili, per es. i siti web dei gestori di servizi di telecomunicazione – nessun requisito da parte delle ANR
- Mancanza di istruzioni da parte delle ANR per utenti e fornitori ai fini della comprensione delle disposizioni in materia di accessibilità
- Mancanza di un monitoraggio regolare in materia di accessibilità

Codice europeo delle comunicazioni elettroniche (EECC) Rifusione

- Emenda e fonde in un'unica direttiva il pacchetto telecom 2009
- Elimina l'eredità dei servizi universali (per es. telefoni pubblici a pagamento, rubriche telefoniche) ed è incentrato su:
 - Comunicazione vocale
 - Connessione Internet funzionale (lista di servizi online)
- Mantiene gli obblighi in materia di accessibilità economica
- Mantiene gli obblighi per quanto riguarda la parità di accesso e di scelta per le persone con disabilità, compresi i servizi 112
- Elimina gli obblighi in materia di apparecchiature terminali
- Cita i servizi ponte telefonici (tramite video) e di conversione totale nel considerando 14

Obiettivi generali EDF

- 1.Parità di accesso per utenti finali con disabilità
- 2.Disponibilità e interoperabilità della conversazione globale(voce, video e RTT) in tutta l'UE
 - Non si tratta più solo di comunicazione vocale! Real Time Text (RTT - Testo in tempo reale), un altro modo di chiamare, [già realtà negli Stati Uniti](#)
2. Disponibilità, accessibilità economica e compatibilità di
 - Servizi di ritrasmissione testuale
 - Servizi di ponte telefonico (tramite video)
 - Tecnologie assistive
3. Accessibilità economica dei servizi di comunicazione elettronica
4. Servizi 112 e 116000 su base di parità con gli altri
5. Deve imporre obblighi per servizi di accesso TV

Raffronto EECC/SEE

EECC	SEE
Disponibilità e accessibilità economica di apparecchiature <u>speciali</u>	Requisiti di accessibilità per i prodotti <u>destinati al grande pubblico</u> (smartphone). Per es. in grado di sostenere la conversazione globale
Disponibilità e accessibilità economica degli <u>obblighi di servizio universale</u> + conversazione globale + TRS e VRS Servizi 112 accessibili in tutta l'UE	Requisiti di <u>accessibilità funzionale armonizzata</u>
Interoperabilità per RTT e videochiamate attraverso l'azione della ANR	Interoperabilità per RTT attraverso <u>norme standardizzate (preferito)</u>
Compiti della ANR riguardo alla parità di accesso per utenti finali con disabilità	Applicazioni mobili, siti Internet e informazioni accessibili di gestori di applicazioni mobili



EUROPEAN
DISABILITY
FORUM

Grazie!

Per maggiori informazioni, contattare la segreteria EDF:
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alejandro.moledo@edf-feph.org



Workshop: Solutions to barriers on accessibility

Alejandro Moledo, EDF New Technologies and Innovation officer
EU Disability Law and the UNCRPD, Trier, 30 May 2017



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Universal Design / Design for All

UN CRPD definition: “means the design of products, environments, programmes and services to be usable by all people, to the greatest extent possible, without the need for adaptation or specialized design. “Universal design” shall not exclude assistive devices for particular groups of persons with disabilities where this is needed.”



Universal Design Principles

- Equitable use
- Flexibility in use
- Simple and intuitive use
- Perceptive information
- Tolerance for error
- Low physical effort
- Size and space for approach and use

Accessibility

“Extent to which products, systems, services, environments and facilities can be used by people from a population with the widest range of characteristics and capabilities to achieve a specified goal in a specified context of use”

ISO 26800, Ergonomics — General approach, principles and concepts

Group 1 – Accessibility Goals

Come up with requirements for the following:

1. Suitability for the widest range of users
2. Conformity with user expectations
3. Support for individualization
4. Approachability
5. Perceivability
6. Understandability
7. Controllability
8. Usability
9. Error tolerance
10. Equitable use
11. Compatibility with other systems

Group 2 - Human abilities and characteristics

Think of the barriers and design solutions for:

1. Sensory: vision; hearing; touch; taste & smell
2. Immunological
3. Physical: body size, upper and lower body movement; strength and endurance; voice & speech
4. Cognitive: global (intellect, consciousness, energy and motivation); specific (perception, attention, learning, memory, language, reasoning, problem solving, decision making, and reading), and affective (emotional).

Design considerations (ISO Guide 71)

1. Provide multiple means of information presentation and user interaction
2. Set fixed parameters to accommodate the widest range of users
3. Set adjustable parameters to accommodate the widest range of users
4. Minimize unnecessary complexity
5. Provide individualized access to a system
6. Eliminate unnecessary limits or constraints on user interactions with a system
7. Provide compatibility with assistive products and assistive technology
8. Provide alternative versions of a system



THANK YOU

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Guide for addressing accessibility in standards

Guide pour l'intégration de l'accessibilité dans les normes



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Foreword

ISO (the International Organization for Standardization) and IEC (the International Electrotechnical Commission) are worldwide federations of national standards bodies (ISO member bodies and IEC national committees). The work of preparing International Standards is normally carried out through ISO and IEC technical committees. Each member body interested in a subject for which a technical committee has been established has the right to be represented on that committee. International organizations, governmental and non-governmental, in liaison with ISO or IEC, also take part in the work. ISO collaborates closely with IEC on all matters of electrotechnical standardization.

International Standards are drafted in accordance with the rules given in the ISO/IEC Directives, Part 2.

Draft Guides adopted by the responsible Committee or Group are circulated to the member bodies for voting. Publication as a Guide requires approval by at least 75 % of the member bodies casting a vote.

Attention is drawn to the possibility that some of the elements of this document may be the subject of patent rights. ISO and IEC shall not be held responsible for identifying any or all such patent rights.

ISO/IEC Guide 71 was prepared by the ISO/IEC JTAG (Joint Technical Advisory Group) at the request of the ISO/TMB and the IEC/SMB. It was subsequently adopted by ITU-T Study Group 16 as ITU-T Supplement 17 to the H-Series of Recommendations.

This second edition cancels and replaces the first edition (ISO/IEC Guide 71:2001), which has been technically revised.

For the purposes of obtaining feedback and information about experiences in using this Guide, users are encouraged to share their views on ISO/IEC Guide 71:2014. Please click on the link below to take part in the online survey:

<http://www.surveymonkey.com/s/guide71>

Introduction

The purpose of this Guide is to assist standards developers (e.g. technical committees or working groups) to address accessibility in standards that focus, whether directly or indirectly, on any type of system that people use. It provides guidance for developing and writing appropriate accessibility requirements and recommendations in standards. However, while its intended audience are standards developers, this Guide contains information that can also be useful to other people, such as manufacturers, designers, service providers and educators.

The second edition of this Guide, retitled “*Guide for addressing accessibility in standards*,” builds upon the edition published in 2001, titled “*Guidelines for standards developers to address the needs of older persons and persons with disabilities*”. This edition takes account of developments in thinking and practice which have taken place since 2001 and takes a more inclusive approach. This edition also sets out to improve the usability and adoption of the Guide itself. This Guide, like its predecessor, is intended to be part of the overall framework that standards bodies can use in their efforts to support the development of systems that suit the needs of diverse users.

It is an important goal for the whole of society that all people, regardless of their age, size or ability, have access to the broadest range of systems. Issues of accessibility to and usability of systems have become more critical as the number of people (such as older persons, children, persons with reduced abilities and persons with disabilities) with diverse user accessibility needs has increased.

Based on their individual abilities and characteristics, people’s accessibility needs vary substantially and change throughout the course of their lives (i.e. as they advance from childhood to adulthood and on into old age). Impairments can be permanent, temporary or vary on a daily basis, and sometimes they are not fully recognized or acknowledged. In addition, although some limitations can be minor in nature, combinations of limitations can pose significant problems for individuals attempting to interact with systems. This is the case particularly where user accessibility needs and accessibility requirements were not recognized during development of those systems. Standards that include accessibility requirements can support development of systems that can be used by more users.

While much progress has been made worldwide in the development of accessibility standards relating to information and communications technology and the built environment, the development of accessibility standards related to other sectors has not always kept pace. However, the requirements of national and international anti-discrimination legislation have become increasingly stringent. Additional recommendations are contained in the United Nations Convention on the Rights of Persons with Disabilities^[36] particularly in Articles 4, 9, 21 and 30), in the UN Committee of the rights of persons with disabilities, General Comment 2^[37] and emerging national and regional procurement regulations.

International Standards of ISO and IEC and ITU-T recommendations can play an important part in avoiding market fragmentation and achieving harmonized accessible systems rather than those that meet only national standards and are incompatible with those produced in other nations.

The *IEC/ISO/ITU Joint Policy Statement on Standardization and Accessibility*^[25] sets out the basic principles for ensuring that the needs of older persons, children and persons with disabilities are incorporated in the standards development process, providing justification on human rights and economic grounds. One of the core points of the Joint Policy Statement is “accessible or universal design”, which aims at ensuring that products, systems, services, environments and facilities can be used by persons from a population with the widest range of characteristics and abilities. In this second edition, the Guide is intended to supplement the Joint Policy Statement by providing a set of accessibility goals and describing human abilities and characteristics to assist standards developers in identifying accessibility needs of diverse users in diverse contexts of use.

The guidance provided in this Guide is general. The Guide recognizes the principle that standards should normally not be design-restrictive. The Guide therefore suggests ways of determining user accessibility needs without providing specific solutions. It is important to realize that one-size-fits-all solutions seldom meet every person’s needs and that accessible features can benefit the majority of the population. Optimal solutions vary greatly depending on the specific users and contexts of use. Additional sector-related guides might need to be developed for specific product or service sectors.

Guide for addressing accessibility in standards

1 Scope

This Guide provides guidance to standards developers on addressing accessibility requirements and recommendations in standards that focus, whether directly or indirectly, on systems (i.e. products, services and built environments) used by people. To assist standards developers to define accessibility requirements and recommendations, the Guide presents:

- a summary of current terminology relating to accessibility;
- issues to consider in support of accessibility in the standards development process;
- a set of accessibility goals (used to identify user accessibility needs);
- descriptions of (and design considerations for) human abilities and characteristics;
- strategies for addressing user accessibility needs and design considerations in standards.

2 Terms and definitions

For the purposes of this document, the following terms and definitions apply.

2.1

system

product, service, or built environment or any combination of them with which the user interacts

2.2

user

individual who accesses or interacts with a system

[SOURCE: ISO 9241-11:1998, 3.7, modified — “Accesses” has been added to the definition, “person” has been replaced by “individual”.]

2.3

diverse users

individuals with differing abilities and characteristics or accessibility needs

2.4

user accessibility need

user need related to features or attributes that are necessary for a system to be accessible

Note 1 to entry: User accessibility needs vary over time and across contexts of use.

2.5

impairments

problems in body function or structure related to a significant deviation or loss

Note 1 to entry: Impairments can be temporary or permanent; progressive, regressive or static; intermittent or continuous.

[SOURCE: ICF 2001, WHO, Clause 6, section 4.1]

2.6

activity limitations

difficulties an individual can have in executing activities

[SOURCE: ICF 2001, WHO]

2.7

context of use

physical and social environments in which a system is used, including users, tasks, equipment and materials

[SOURCE: ISO 9241-11:1998, 3.5, modified — The structure of the sentence has been changed.]

2.8

diverse contexts

differing contexts of use and differing economic, cultural and organizational conditions

2.9

effectiveness

accuracy and completeness with which users achieve specified goals

[SOURCE: ISO 9241-11:1998, 3.2]

2.10

efficiency

resources expended in relation to the accuracy and completeness with which users achieve goals

[SOURCE: ISO 9241-11:1998, 3.3]

2.11

satisfaction

freedom from discomfort, and positive attitudes towards the use of the product

[SOURCE: ISO 9241-11:1998, 3.4]

2.12

usability

extent to which a product can be used by specified users to achieve specified goals with effectiveness, efficiency and satisfaction in a specified context of use

[SOURCE: ISO 9241-11:1998, 3.1]

2.13

multiple means of presentation

different ways of presenting information

Note 1 to entry: Presenting information in different ways can improve the accessibility of systems

2.14

multiple means of operation

different ways of manipulation and control

Note 1 to entry: Providing different ways of manipulation and control can improve the accessibility of systems.

2.15

assistive product

any product (including devices, equipment, instruments and software), especially produced or generally available, used by or for persons with disability for participation, to protect, support, train, measure or substitute for body functions/structures and activities, or to prevent impairments, activity limitations or participation restrictions

[SOURCE: ISO 9999:2011, 2.3]

2.16**assistive technology**

equipment, product system, hardware, software or service that is used to increase, maintain or improve capabilities of individuals

Note 1 to entry: Assistive technology is an umbrella term that is broader than assistive products.

Note 2 to entry: Assistive technology can include assistive services, and professional services needed for assessment, recommendation and provision.

2.17**standards body**

standardizing body recognized at national, regional or international level, that has as a principal function, by virtue of its statutes, the preparation, approval or adoption of standards that are made available to the public

Note 1 to entry: A standards body may maintain standards committees, working groups or other entities to undertake standardization in various subject fields.

Note 2 to entry: A standards body may also have other principal functions.

[SOURCE: ISO/IEC Guide 2:2004, 4.4, modified — Note 1 has been added]

2.18**universal design**

design of products, environments, programmes and services to be usable by all people, to the greatest extent possible, without the need for adaptation or specialized design

Note 1 to entry: Universal design shall not exclude assistive devices for particular groups or persons with disabilities where this is needed.

Note 2 to entry: Terms such as universal design, accessible design, design for all, barrier-free design, inclusive design and transgenerational design are often used interchangeably with the same meaning.

[SOURCE: United Nations Convention on the Rights of Persons with Disabilities, Art. 2, modified — Note 2 has been added]

2.19**accessible design**

design focused on diverse users to maximize the number of potential users who can readily use a system in diverse contexts

Note 1 to entry: This aim can be achieved by (1) designing systems that are readily usable by most users without any modification, (2) making systems adaptable to different users (by providing adaptable user interfaces) and (3) having standardized interfaces to be compatible with assistive products and assistive technology.

Note 2 to entry: Terms such as universal design, accessible design, design for all, barrier-free design, inclusive design and transgenerational design are often used interchangeably with the same meaning.

3 Accessibility**3.1 General**

This Guide utilizes the term *accessibility* from an inclusive perspective, recognizing that accessibility generally benefits everyone.

In the context of standardization, several definitions for the term *accessibility* exist but in general, the term is used with a broad understanding. A widely-accepted definition refers to the “extent to which products, systems, services, environments and facilities can be used by people from a population with the widest range of characteristics and capabilities to achieve a specified goal in a specified context of use” (reference: ISO 26800,^[13] and, similarly, ISO/TR 9241-100^[3] and ISO/TR 22411^[11]).

“Accessibility” and “usability” overlap and some standards define the term *accessibility* as “usability of a product, service, environment or facility by individuals with the widest range of capabilities” (reference: ISO 9241-171,^[5] ISO/IEC 25062^[21] and ISO/IEC 29136.^[22] This perspective emphasizes that accessibility involves both ease of use (which can affect task efficiency and user satisfaction) and success of use (i.e. system effectiveness).

3.2 Accessibility and standards

Standards can greatly influence system designs and can therefore contribute significantly to increasing accessibility and minimizing the presence of systems that limit accessibility. If accessibility considerations are included in standards, system designers might recognize the need for accessibility features earlier in the design process. Addressing user accessibility needs earlier rather than later in the design process enables producers, possibly at little or no extra cost, to design and produce systems that are accessible.

Government legislation based on accessibility standards can influence public policies, procedures and practices.

A number of global trends have contributed to increasing the importance of accessibility in standards development. These are summarized in [Annex A](#).

It is important for standards developers to recognize that no two people have exactly the same abilities and characteristics. Differences among people can be influenced by their gender, age, size, health condition, impairment, training and experience.

Accessible systems are particularly helpful when environmental context of use conditions (such as light intensity, noise or busy activity of nearby people) are unfavourable. Accessibility might be perceived to be in conflict with safety issues. However, it should be kept in mind that features designed to ensure usability and safety should strike a balance with accessibility in order to prevent the exclusion or harm of any user. Standards developers should ensure that systems with safety provisions address the needs of the full range of diverse users.

4 Accessibility in the standards development process

4.1 General

This clause outlines how accessibility can be addressed in the standards development process:

- [4.2](#) contains general considerations for standards bodies related to making the standards development process accessible;
- [4.3](#) provides guidance for each of the respective stages of the standards development process to ensure accessibility is given adequate consideration.

4.2 Considerations by standards bodies

Standards bodies should develop a process for determining whether projects would benefit from applying this Guide.

Standards bodies should ensure that all stages of the standards development process are accessible. This includes documentation and any information produced by the standards development committee, the means of access to these resources as well as the physical or remote access (e.g. through teleconferencing or web-conferencing tools) to the standards development committee meetings. This is because membership of standards development committees and people wishing to comment on drafts can have specific accessibility needs.

Standards bodies should encourage and facilitate the participation of relevant stakeholders in the standards development process. Stakeholders should include older persons and persons with

disabilities from organizations representing these populations and those persons with a knowledge of the accessibility needs of children and gender-related groups¹⁾.

Standards bodies should commission training for their staff and their committee officers (secretaries and chairpersons of standards development committees), in accordance with appropriate international specifications, to enable them to understand the importance of accessibility and to alert them to aspects in standards projects where accessibility considerations should be addressed.

Standards bodies should take necessary steps to make their buildings, services and facilities accessible. This could include but would not be limited to: developing an accessibility policy and action plan for the standards body; ensuring that the organization's website is fully accessible; having policies and procedures in place to address accessibility needs; making accessibility improvements to the organization's building; and establishing an accessibility user group to advise the standards body on accessibility on an ongoing basis.

4.3 Considerations related to the standards development process

The standards development process is typically organized as a sequence of the five stages listed below. For each stage, the key participants are identified and a list of key actions is given to take into account accessibility considerations.

4.3.1 Stage 1: Define the standards project and determine the applicability of this Guide

Key participants

Proposer of standards project

Members of the standards development committee

Key Actions [KA]

KA 1.1 Determine, with due diligence, whether the proposed standard focuses on a system or systems with which humans interact as users, either directly or indirectly. If this is not thought to be the case, then this Guide is generally not likely to be applicable.

If a standards development committee is unsure if this Guide applies to the specific standard it is developing, the committee should use the Guide until such a time that it determines that the Guide does not apply to its standard. Sometimes a standards committee will initially decide that this Guide does not apply, only to find out later, as the draft standard evolves, that the system will involve direct or indirect interaction with humans. In these cases, the standards committee should begin using the Guide at that point and review the work already done.

KA 1.2 Identify the ways in which humans are likely to interact with the system, directly or indirectly.

KA 1.3 Identify potential users and determine or identify diversity of abilities and characteristics.

KA 1.4 Identify key sources of relevant information — such as existing regulations, standards, and research results — that should be collected and considered during the standards development process.

KA 1.5 Determine relevant accessibility aspects that should be addressed by the standard.

Outcomes of this stage

A decision has been made as to whether this Guide is applicable. Initial sources of additional information about accessibility have been identified.

1) Further information relating to the involvement of users and potential users can be found in ISO Guide 82^[1] and ISO 26000:2010^[12], 4.5 and 5. Also of relevance is ISO 9241-210^[6]. In some regions there may be specific regulations to ensure participation by relevant stakeholders, such as European Union Regulation 1025/2012^[30].

4.3.2 Stage 2: Ensure the standards development committee is well equipped to implement an accessible process with equitable participation

Key participants

Standards body

Standards development committee chair and secretary

Key Actions [KA]

KA 2.1 Ensure standards development committee membership includes adequate target stakeholder group input.

KA 2.2 Establish processes to ensure the accessibility of information, communications and meeting facilities (including teleconferences and online communications) used during the development of the standard.

Outcomes of this stage

Individuals and organizations with knowledge in accessibility are involved in the project. Accessibility requirements are addressed in the operations of the committee and organization of meetings.

4.3.3 Stage 3: Develop the content of the standard

Key participants

Standards development committee chair and secretary

Experts

Standards development committee members

Key Actions [KA]

KA 3.1 Define the issues: Use this Guide (and other relevant documents) to determine or verify user accessibility needs (see [Clause 6](#)) and/or design considerations (see [Clause 7](#)) regarding accessibility.

KA 3.2 Develop candidate requirements and recommendations: Determine potential ways (see [Clause 8](#)) in which each user accessibility need or design consideration could be met by requirements and recommendations within the standard, considering how flexible or alternative options could provide users with the ability to achieve accessibility in the way that best fits the context of use.

KA 3.3 Evaluate the feasibility of potential requirements and recommendations, taking into account constraints and trade-offs.

KA 3.4 Incorporate resulting requirements and recommendations in the standard.

KA 3.5 Confirm requirements and recommendations: Consult stakeholders to confirm that accessibility is appropriately and adequately addressed in the standard.

KA 3.6 Repeat some of the previous steps in this stage, if necessitated by stakeholder feedback.

KA 3.7 Reference: Include a citation for this Guide on the reference list in the standard.

Outcome of this stage

Requirements and recommendations regarding accessibility for the widest range of users impacted by the standard have been addressed and are reflected in the draft standard.

4.3.4 Stage 4: Issue the draft standard for public review and vote and revise the standard as needed

Key participants

Standards body and stakeholders

Key Actions [KA]

KA 4.1 Ensure all draft documents are prepared and published in accessible format(s).

KA 4.2 Ensure links to all draft documents are disseminated widely in order to collect feedback from diverse stakeholders.

KA 4.3 Ensure that all commenting and voting tools are accessible.

Outcome of this stage

The draft has been disseminated to a wide audience, including diverse users in a diverse range of contexts of use.

4.3.5 Stage 5: Publish the standard

Key participants

Standards body

Key Actions [KA]

KA 5.1 Ensure the standard is published in accessible format(s).

KA 5.2 Ensure information about the new standard is disseminated to a wide range of relevant stakeholders, organizations and standards committees.

KA 5.3 National standard bodies are encouraged to translate Guide 71 to national language(s) to facilitate use by relevant stakeholders, organizations and standards committees.

Outcome of this stage

Standard is available for use by all interested parties.

5 How to apply the Guide

5.1 Two approaches to addressing accessibility in standards

This Guide identifies two complementary approaches to addressing accessibility in a specific standard:

- an *accessibility goals approach* (see [Clause 6](#)), which can be used to identify user accessibility needs that can, in turn, be used to identify accessibility requirements and recommendations for a standardization project;
- a *human abilities and characteristics approach* (see [Clause 7](#)), which can be used to identify design considerations that can, in turn, also be used to identify accessibility requirements and recommendations for a standardization project.

Standards developers should use these approaches to address accessibility in applicable standards. The use of both approaches can result in the creation of the most appropriate set of standard-specific requirements and recommendations. The extent to which either approach is relied on can vary with the scope and context of use of the particular standard being developed.

[Clause 6](#) provides information on accessibility goals that can support accessibility. The clause discusses how standards developers can use questions (based on these goals) within the context of their specific standard to identify standard-specific user accessibility needs.

[Clause 7](#) provides information on human abilities and characteristics and the consequences of impairments, including respective design considerations for accessibility.

[Clause 8](#) provides strategies for developing standards requirements and recommendations based on the outputs of the two approaches, and includes examples of requirements and recommendations that result from the application of each strategy.

This Guide also recognizes the value of using a range of other sources of accessibility-related information.

[Figure 1](#) provides a graphical summary of how this Guide can be used.

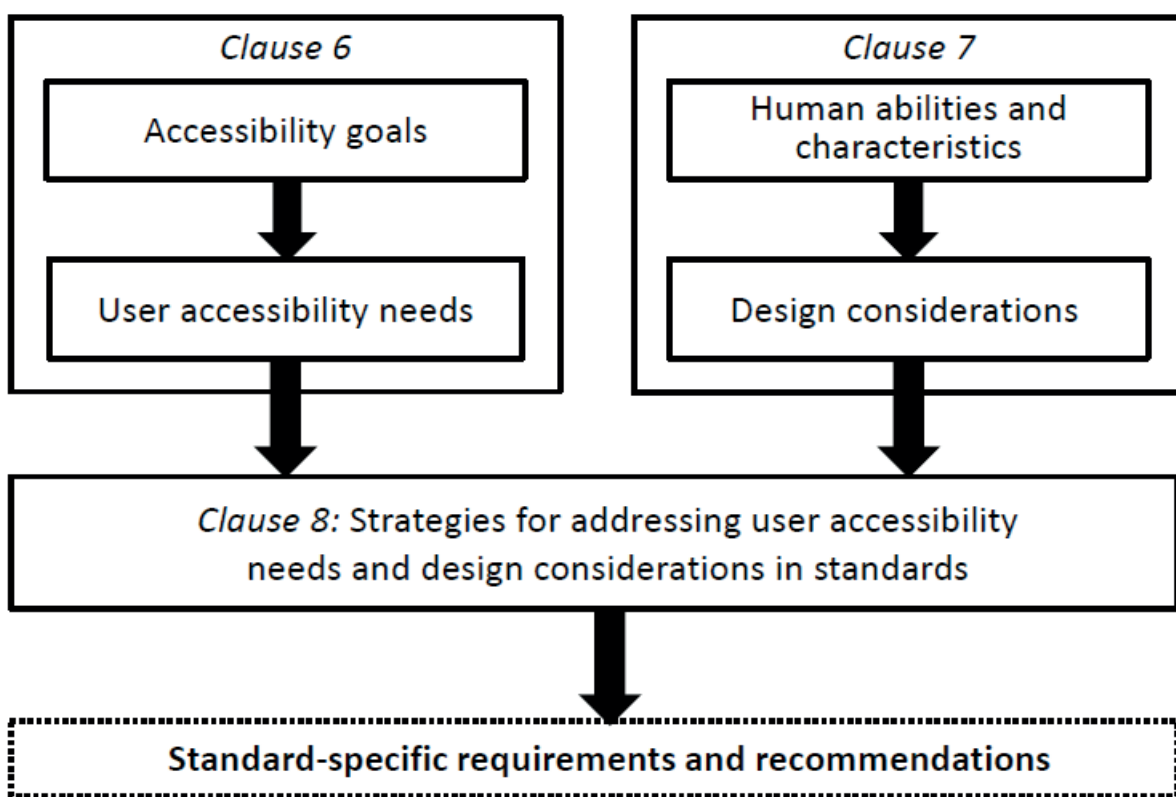


Figure 1 — Two approaches to address accessibility in standards

[Figure 1](#) is a visual representation of the two approaches presented in the Guide for addressing accessibility in standards. The first approach is discussed in [Clause 6](#), which contains a set of accessibility goals that are used to identify user accessibility needs. The second approach is discussed in [Clause 7](#), which contains categories of human abilities and characteristics as well as design considerations for each category. The results of taking either or both approaches in [Clauses 6](#) and [7](#) can be applied to develop standard-specific requirements and recommendations, following one or more of the strategies discussed in [Clause 8](#).

5.2 Other sources of information

A wide variety of other sources of information can be used by standards developers, within the scope of a particular standard, to identify user accessibility needs, design considerations and/or accessibility-related requirements and recommendations.

It is recognized that different sectors (i.e. products, services and built environments) and their various subsectors have more specialized user accessibility needs than are presented in this Guide. The committees responsible for developing standards for these sectors and subsectors are encouraged to produce more detailed sector-specific guidance to assist standards developers within their domains. One way of assisting standards developers is to create a collection of user accessibility needs that apply specifically to the particular sector (see e.g. ISO/IEC/TR 29138-1[23] and IEC/TR 62678[27]).

Other potential sources of information on user accessibility needs, design considerations and/or accessibility related requirements can be found in government regulations. These can be used directly by standards developers but it is important to consider differences in regulations across the various jurisdictions intended to use the standard.

ISO/TR 22411[11] provides an expansion on the various human abilities and characteristics and design considerations presented in [Clause 7](#) of this Guide. It also provides ergonomic data that can be used in developing specific requirements and recommendations.

The World Health Organization's *International Classification of Functioning, Disability and Health* (ICF) [39] is a source of information that can be used in standards to describe people and their functioning. Adopted by over 190 member states, the ICF provides a resource for a unified, standard language and framework, which is consistent, clearly defined and unambiguous. It is available in the majority of the world's major languages. [Annex B](#) provides an overview on how to use the ICF as a resource for terminology that can be used in some parts of standards to describe people and their functioning.

The number of standards that focus on accessibility within certain sectors is increasing (e.g. ISO 9241-171[5] and ISO 21542[10]). Where applicable accessibility standards exist, they can be used as normative references (i.e. other standards can either require that they be used in their entirety or that particular clauses within them be used).

It is useful to get feedback relating to user accessibility needs directly or indirectly from potential users of the systems to be developed using the standard. An effective method to identify user accessibility needs is the use of comprehensive surveys on user experiences. Often (e.g. in product development) companies have a significant amount of information that can help them identify accessibility needs (customer complaints, accident data, marketing data, usability testing results, etc.).

This Guide can also be used in conjunction with other ISO/IEC Guides, including:

- ISO/IEC Guide 37, *Instructions for use of products by consumers*;[\[15\]](#)
- ISO/IEC Guide 41, *Packaging — Recommendations for addressing consumer needs*;[\[16\]](#)
- ISO/IEC Guide 50, *Safety aspects — Guidelines for child safety*;[\[17\]](#)
- ISO/IEC Guide 51, *Safety aspects — Guidelines for their inclusion in standards*;[\[18\]](#)
- ISO/IEC Guide 59, *Code of good practice for standardization*;[\[19\]](#)
- ISO/IEC Guide 76, *Development of service standards — Recommendations for addressing consumer issues*.[\[20\]](#)

5.3 Verifying and validating that accessibility is adequately addressed

Standards developers should verify and validate that accessibility has been adequately addressed in the standard.

It is preferable that verification and validation be conducted, using this Guide and any other appropriate resources, by external standards developers not involved in drafting the standard.

Verification should confirm that the accessibility requirements and recommendations in the standard are consistent with the sources from which they were developed.

Validation should qualitatively confirm that the accessibility requirements and recommendations meet the needs of the stakeholders affected by systems that comply with the standard. Validation should involve input from representatives of various affected accessibility stakeholder groups and accessibility experts with knowledge of the domain of the standard.

6 Accessibility goals

6.1 General

6.1.1 Structure of the goals

Accessibility goals provide one approach to the identification and development of specific accessibility-related requirements and recommendations to be included in standards. This approach is referred to in this Guide as the accessibility goals approach. The goals can be applied to the design and evaluation of a variety of systems and thus could be included within the accessibility guidance in a variety of standards.

Each of the 11 goals is introduced by its name and presented in the same structure:

1. **The goal:** The basic goal statement.
2. **Discussion:** An elaboration on the basic goal statement.
3. **Background:** Sources from which the goal is derived.
4. **Common user accessibility needs:** User accessibility needs related to the goal.
5. **Questions to consider:** Questions for applying the goal.

The goals presented in this Guide are based on principles used in a variety of existing accessibility guidance documents (including ISO 9241-171,^[5] ISO/IEC 40500^[24] and *Principles of Universal Design*^[32]) and other sources of related information (including ISO 9241-11,^[2] ISO 14915-1,^[8] ISO 26800^[13]). Standards developers can benefit from consulting the original sources of information that were used to derive the goals and which are listed in the bibliography. While many of the sources used in their derivation come from the Information and Communications Technology (ICT) domain, these goals are intended to be a broad set of goals that can be applied across all domains. It is recognized that some goals can be more applicable to some domains than others.

The accessibility goals in this section can help standards developers identify ways in which the standard they are developing could enhance or inhibit the accessibility of the systems on which the standard focuses and especially meet the user accessibility needs of diverse users in diverse contexts of use.

6.1.2 Identifying user accessibility needs

The typical user accessibility needs provided in this clause give standards developers an indication of needs that can be identified by considering the goals and answering the questions.

Diverse users can have a large number of differing user accessibility needs. However, it is important to recognize that different users can have different user accessibility needs in different contexts of use, and that specific user needs might not be user accessibility needs for different people in different circumstances. The user accessibility needs of some users might also conflict with the user accessibility needs of other users. Standards developers should ensure that the requirements and recommendations that they include in a standard are sufficient to meet the full set of user accessibility needs that are appropriate to the standard. Rather than disregarding some user accessibility needs in creating requirements and recommendations for a standard, it is important to ensure that the user accessibility needs of diverse users are accommodated in diverse ways.

6.1.3 Applying user accessibility needs to generate requirements and recommendations

Standards developers should identify user accessibility needs relating to the particular standard they are developing. It is recognized that not all of the typical user accessibility needs identified in this clause might be relevant to all standards. Standards developers can apply the goals (either directly or via the questions that are presented with them) within the specific context of their standard to identify specific user accessibility needs. It is also recognized that the typical user accessibility needs listed in this clause should be specialized to suit a particular standard, and that standards developers should identify important user accessibility needs that are not listed here. Some of the goals might be easier to apply than other goals when developing a particular standard. However, often the less obviously applicable goals can be used to identify user accessibility needs that would otherwise be missed.

In most cases there will not be a one-to-one correspondence between requirements or recommendations and user accessibility needs. For example, multiple requirements and recommendations could combine to meet a single user accessibility need; and a single requirement or recommendation could be used to meet (or partially meet) more than one user accessibility need. It does not matter which goal or goals lead to the identification of a user accessibility need. Some of the goals might overlap or conflict with one another, requiring trade-offs to be made. Once the set of user accessibility needs has been identified, overlaps and potential conflicts can be dealt with appropriately. Overlaps will generally not require action; however, in the case of conflicts there could be a need for trade-offs in the development of accessibility-related requirements.

The questions provided with goals in this clause are general questions that standards developers can use to help them to identify important issues and user accessibility needs relating to the goal. A copy of these questions is contained in [Annex C](#) to support their ease of use. Standards developers can use these questions to assist them in achieving this goal. Standards developers are encouraged to customize the set of questions by tailoring the existing questions and/or adding further questions in order to better suit the particular standard being developed.

NOTE In this clause, the term “deliverable” is used to describe all types of documents that are produced taking into account the accessibility goals in this clause, such as standards, technical specifications, technical reports, publicly available specifications, guides, ITU recommendations or workshop agreements.

6.2 The goals

6.2.1 Suitability for the widest range of users

6.2.1.1 The goal

A system is suitable for the widest range of users if it meets the needs of diverse users in diverse contexts.

6.2.1.2 Discussion

This goal recognizes that the widest range of users involves both diverse users and diverse contexts as defined in this Guide. While all the potential users might not always be readily known, it is important to ensure that persons, who could be appropriate users, if they were provided accessible means of doing so, are not excluded.

6.2.1.3 Background

This goal is derived from the various definitions of accessibility as discussed in [3.1](#) and from the principle of “suitability for the widest range of use” in ISO 9241-171.^[5]

6.2.1.4 Common user accessibility needs

User accessibility needs include:

- to be included as system users through the provision of accessible modes and methods of use;

- to have the system accessible to users with combinations of impairments and in adverse environmental conditions.

6.2.1.5 Questions to consider

- a) Who are the potential users of systems that will be addressed by or who will relate to this deliverable?
- b) Which potential users, if any, might be excluded by the requirements and recommendations in this deliverable?
- c) What are all the contexts of use in which systems that relate to this deliverable could be used?
- d) Which contexts of use might be excluded by the requirements and recommendations in this deliverable?

6.2.2 Conformity with user expectations

6.2.2.1 The goal

A system conforms to user expectations if it is predictable based on the user's past experience, the context of use, laws and standards, and/or commonly accepted conventions.

6.2.2.2 Discussion

This goal recognizes that failure to conform to user expectations can be confusing for diverse users and can lead to errors. Users can have expectations with regards to a number of aspects of a system including: terminology, actions, responses, and communications. User expectations are based upon an individual's past experience and can be changed or enhanced (e.g. via the provision of information or training) and expectations can evolve over time. User expectations are often determined by the current context of use and can change across different contexts. When a user is in a new context, expectations will be based on similar contexts with which the user is familiar. This goal encourages that interaction with or operation of systems to be predictable. New systems might require users to learn new knowledge or skills. When people are required to modify familiar practices or habits, difficulties can result. This is especially significant because some users have considerable difficulties (that can extend to inabilities) in dealing with contradictory methods of performing actions that they understand as being similar to one another.

NOTE It is not the intent of this goal to preclude the development of new expectations. However, it advocates consistency with user's existing expectations wherever possible.

6.2.2.3 Background

This goal is derived from the principles of "conformity with user expectations" from ISO 9241-110^[4] and "simple and intuitive use" from *Principles of Universal Design*.^[32]

6.2.2.4 Common user accessibility needs

User accessibility needs include:

- not to be surprised by the results of interactions with the system;
- to be able to apply personal knowledge and experience to interact successfully with the system;
- to receive instruction or training directed at preparing them for new knowledge needed to interact successfully with the system;
- to obtain immediate and easily accessible help or further instructions, where such help can be provided by the system.

6.2.2.5 Questions to consider

- a) What are the expectations/user experiences of the diverse users of systems that relate to this deliverable?
- b) Is there any available information on frustrated or confirmed user expectations with products affected by deliverables in this domain?
- c) What conflicts with potential user expectations could result from using this deliverable?
- d) What new user expectations will be created by using this deliverable?

6.2.3 Support for individualization

6.2.3.1 The goal

A system supports individualization if its components, functions or operations can be tailored to meet the needs of individual users.

6.2.3.2 Discussion

This goal recognizes that a single system design is seldom optimal in meeting the needs of every user and context of use and it can be important to provide users with choices in how to interact with a system. While various types of systems or system components (e.g. the built environment) are not modifiable by users, individualization can be accomplished if the users can individualize the way in which they interact with the system.

Individualization focuses on providing each user with means of obtaining the best possible solution for that user. This can be accomplished by providing users with a choice in their methods of interacting with a system (such as alternative sets of operations or interactions, alternate modalities of interacting or operating, or cognitive strategies) and/or by providing alternative means or formats of interaction matched to that individual's needs in that context or by implementing other accessibility strategies.

6.2.3.3 Background

This goal is derived from the principles "suitability for individualization" from ISO 9241-110[4], "flexible in use" from ISO 9241-171,[5] and "flexibility in use" from *Principles of Universal Design*. [32]

6.2.3.4 Common user accessibility needs

User accessibility needs include:

- to be provided with (and to be able to choose) the way of interacting with a system that best works for them (including activating and deactivating built-in accessibility features);
- to be provided with information on available options for interacting with a system on which to base a choice of interaction methods;
- to be provided an accessible means to choose individualization features, which will be maintained for future uses of the system, until changed by the user.

6.2.3.5 Questions to consider

- a) What aspects of user interaction with systems that relate to this deliverable should the user be able to individualize?
- b) What aspects of user interaction with systems that relate to this deliverable could present barriers for some users if they are not individualizable?

- c) What recognized or innovative sets of individual options or preferences could be recommended by the deliverable for potential implementation within systems?
- d) How could the context in which the deliverable is used affect the identified individual options or preferences that are needed?

6.2.4 Approachability

6.2.4.1 The goal

A system is approachable if diverse users can overcome any physical or psychological barriers and physically or remotely access it to accomplish the task.

6.2.4.2 Discussion

This goal recognizes that a lack of approachability can create a barrier to use for some users. Access routes, spaces, sizes, designs, the layouts of control mechanisms, and the use of processes for interacting with systems are important for diverse users in diverse contexts of use. This involves being able to navigate to and within a system (as appropriate) and being able to get into positions and/or contexts needed to successfully interact with the system and to be able to leave the system. The system could be approachable directly (e.g. by touch, by voice), via remote means (e.g. by using telecommunications), or through the use of assistive products and assistive technology.

This goal recognizes that physical or psychological barriers can inhibit or prevent users from accessing a system. This goal recognizes the importance of taking into account those barriers that can be reasonably identified and removed or controlled but that, within certain environments, some barriers might have to remain where alternative systems will need to be used.

6.2.4.3 Background

This goal is derived from the principle of “size and space for approach and use” from *Principles of Universal Design*.^[32]

6.2.4.4 Common user accessibility needs

User accessibility needs include:

- to have adequate room to fit themselves and their assistive products or assistive technology;
- to have system controls located within close reach;
- to have interaction options clearly presented;
- to have appropriate levels of privacy and security;
- to be able to use the system remotely as well as directly.

6.2.4.5 Questions to consider

- a) How could this deliverable ensure that resulting systems that relate to this deliverable be physically and psychologically approached by diverse users so that they can perform their tasks?
- b) How could this deliverable ensure that systems that relate to this deliverable be remotely approached by diverse users to perform their tasks?
- c) How could this deliverable avoid limits to physical, psychological or remote approachability for diverse users in diverse contexts of use?

6.2.5 Perceivability

6.2.5.1 The goal

A system is perceivable if diverse users in diverse contexts can sense the information and functionalities it presents.

6.2.5.2 Discussion

This goal recognizes that perceivability is focused on the human physical capability to sense information in the sensory modality in which it is presented. Making use of multiple modalities (i.e. more than one of: visual, auditory, tactile, olfactory or taste) can provide perceivability for more diverse users and contexts. Providing information in a single sensory modality can exclude some users in some contexts from perceiving information and functionalities.

6.2.5.3 Background

This goal is derived from the principles of “perceptible information” from ISO 9241-171[5], “suitability for perception and understanding” from ISO 14915-1[8], “perceivable” from ISO/IEC 40500 (WCAG 2.0[24]) and “perceptible information” from *Principles of Universal Design*.[32]

6.2.5.4 Common user accessibility needs

User accessibility needs include:

- to use a specific sensory modality (or a set of specific modalities) to perceive information;
- to control various presentation attributes of a modality;
- to be able to distinguish among the individual elements of information that are being presented;
- to control the physical environment (to the extent reasonable) so that it does not interfere with perceiving the information.

6.2.5.5 Questions to consider

- a) Within the scope of this deliverable, what information should be presented by systems to users?
- b) How could this deliverable ensure that diverse users in diverse contexts can perceive the information presented in systems that relate to this deliverable?
- c) How could this deliverable limit the modalities that a system uses to present information to users?

6.2.6 Understandability

6.2.6.1 The goal

A system is understandable if its information and functionalities are interpretable by diverse users.

6.2.6.2 Discussion

This goal recognizes that understandability depends on the human cognitive ability to correctly interpret the meaning of the information that has been perceived. This goal recognizes that it is important for a system to minimize the need and effort required for diverse users to learn and to remember.

Different users can have different styles of thinking that can influence their ability to understand presented information. Some users work best with models and concepts (e.g. goals, principles) and will have difficulties working with details that are not related to a model or concept. Some users work best with explicit procedures, details, or examples and will have difficulties working with complex or

abstract models or concepts. Different users will have different needs related to their understanding how to interact with a system.

Some users might have the knowledge and cognitive skills to understand a situation and make the correct decision, while other users might need constant assistance or regular retraining to be able to understand the same situation. Some users could benefit from tools that help them to analyse the information they are being given in a manner that aids in its understanding.

Language and culture can affect understanding. It is important that the use of linguistic and cultural aspects of presented information be considered with respect to the widest diversity of users in the widest diversity of contexts.

6.2.6.3 Background

This goal is derived from the principles of “self-descriptiveness” from ISO 9241-110[4], “understandable” from ISO 9241-171:2008,[5] Clause 5, “suitability for perception and understanding” from ISO 14915-1[8], “understandable” from ISO/IEC 40500[24] and “simple and intuitive use” from *Principles of Universal Design*. [32]

6.2.6.4 Common user accessibility needs

User accessibility needs include:

- to be able to obtain an overview of the system and its components and functionalities;
- to be able to understand information presented by the system;
- to have information that supports their cognitive abilities;
- to have the steps for completing tasks minimized and clearly explained;
- to have cues to assist them in completing tasks;
- to have feedback that shows users the results of their actions;
- to be able to control the pace of interaction with the system;
- to be able to access help when needed.

6.2.6.5 Questions to consider

- a) For systems within the scope of this deliverable, what information and functionalities should be presented that would need to be understood by users?
- b) How could this deliverable assist in ensuring that the information and functionalities of the system are understandable for diverse users?
- c) How could this deliverable support diverse users to be able to learn how to use the information and functionalities of systems that relate to it?
- d) How could this deliverable ensure that systems avoid making unnecessary cognitive demands on potential users?

6.2.7 Controllability

6.2.7.1 The goal

A system is controllable if the user is able to initiate and complete the interaction(s) required to accomplish the task.

6.2.7.2 Discussion

This goal recognizes that it is important that diverse users can control their interactions with systems. This depends on the ability of users to interact with different control mechanisms that require different interaction modalities (e.g. by touch, gesture, voice) to use a system. Providing multiple means of operation can improve controllability.

6.2.7.3 Background

This goal is derived from the principles of “controllability” from ISO 9241-110[4], “operable” from ISO 9241-171[5], “suitability for exploration” from ISO 14915-1,[8] and “operable” from ISO/IEC 40500.[24]

6.2.7.4 Common user accessibility needs

User accessibility needs include:

- to be able to use a specific interaction modality (or a set of specific interaction modalities) to interact with the system;
- to be able to perform the task using various parts of the body and specific types of actions;
- to be able to perform tasks one step at a time;
- to be able to interact with the system at one’s own pace.

6.2.7.5 Questions to consider

- a) For systems within the scope of this deliverable, what control actions should users need to be able to initiate and complete?
- b) How could this deliverable ensure that diverse users in diverse contexts of use are able to initiate and complete the actions that are required to accomplish their tasks?
- c) How could this deliverable avoid limiting the modalities that a user can use to initiate and complete the actions that are required to accomplish their tasks?

6.2.8 Usability

6.2.8.1 The goal

A system is usable if it supports diverse users in their diverse contexts to accomplish their tasks with effectiveness, efficiency and satisfaction.

6.2.8.2 Discussion

If the minimum level of usability for a user in a context is not provided, then the user might not consider the system to be accessible enough to use. This goal recognizes that inadequate usability can discourage users from accessing a system. System effectiveness, efficiency and user satisfaction can vary greatly depending on the specific users and context of use.

6.2.8.3 Background

This goal is derived from the definitions of accessibility in terms of usability (see 3.1) and the principles of “suitability for the task” from ISO 9241-110[4], “suitability for the communication goal” from ISO 14915-1[8], “ease of operation” from ISO 20282-1[9] and ‘low physical effort’ from *Principles of Universal Design*. [32] It recognizes that usability is a prerequisite to the successful use of a system and that usability will vary across diverse users and diverse contexts of use.

6.2.8.4 Common user accessibility needs

User accessibility needs include:

- to be able to avoid making mistakes in completing tasks;
- to perform tasks with a minimum of physical and cognitive exertion;
- to be able to complete tasks in an efficient manner relative to one's own abilities (i.e. what is efficient for one user will not necessarily be equally efficient for other users);
- to be able to complete tasks within the available time;
- to be able to complete tasks with the available resources;
- to be satisfied with the outcome of interacting with the system;
- to have confidence that using the system will not involve any negative consequences or unacceptable risks;
- to be satisfied that the system is worth using;
- to have a positive physical and psychological experience using the system.

6.2.8.5 Questions to consider

- a) How could a system that relates to this deliverable assist diverse users in diverse contexts to effectively accomplish their tasks?
- b) How could a system that relates to this deliverable assist diverse users in diverse contexts to accomplish their tasks in a manner that is efficient to each of them?
- c) How could a system that relates to this deliverable assist diverse users in diverse contexts to accomplish their tasks in a manner that is satisfactory to each of them?
- d) How could a system that relates to this deliverable avoid limiting the usability of the system for some users?

6.2.9 Error tolerance

6.2.9.1 The goal

A system has error tolerance if despite predictable errors, diverse users can complete the intended task or activity with either no, or minimal, corrective action or negative consequences.

6.2.9.2 Discussion

This goal recognizes the importance of minimizing the potential for error and that where errors cannot be avoided it is important to minimize their impact on users. Diverse users and diverse contexts can sometimes create situations in which a wide variety of errors can occur and where the effects of these errors can prevent the users from accomplishing their tasks.

6.2.9.3 Background

This goal is derived from the principles of "error tolerance" from ISO 9241-110[4], "error tolerant" from ISO 9241-171[5], "help users avoid and correct mistakes" from ISO/IEC 40500 (WCAG 2.0[24]) and "tolerance for error" from *Principles of Universal Design*. [32]

6.2.9.4 Common user accessibility needs

User accessibility needs include:

- to be able to explore a system without unintentionally activating components or their functionality;
- to be able to successfully operate a system with limited body control (e.g. strength, tremors);
- to be able to detect when errors have been made;
- to be able to recover from errors made from interacting with the system (whenever possible);
- to reset a system to an earlier or original condition as a means to responding to errors;
- to avoid errors by having negative consequences be obvious, easy to avoid, and difficult to trigger.

6.2.9.5 Questions to consider

- a) How could a system that relates to this deliverable assist in minimizing the adverse consequences of errors?
- b) How could a system that relates to this deliverable assist in preventing errors?
- c) How could a system that relates to this deliverable assist in minimizing errors?
- d) How could this deliverable assist the resulting system in enabling users to recover from errors?

6.2.10 Equitable use

6.2.10.1 The goal

A system provides equitable use if it allows diverse users to accomplish tasks in an identical manner whenever possible or in an equivalent manner when an identical manner is not possible.

6.2.10.2 Discussion

This goal recognizes that it is important to avoid situations that could discriminate against certain users or groups of users based on their accessibility needs. It expects that all potential users can be provided with a means to access and use the same system information and functionalities.

6.2.10.3 Background

This goal is derived from the principles of “equitable use” from ISO 9241-171[5] and “equitable use” from *Principles of Universal Design*.^[32]

6.2.10.4 Common user accessibility needs

User accessibility needs include:

- to be able to use a system that relates to this deliverable in a manner that is as similar as possible to other users;
- to be able to use a system that relates to this deliverable in a manner that is different from but equivalent to that of other users;
- to have available alternate ways of interacting with a system that relates to this deliverable.

6.2.10.5 Questions to consider

- a) How could a system that relates to this deliverable ensure that diverse users can interact with the system in an identical or equivalent manner?
- b) Are there elements of the system that some users might not be able to interact with in an identical or equivalent manner?
- c) How could systems that relate to this deliverable segregate, stigmatize or discriminate against some users?
- d) Will requirements and recommendations in this deliverable promote social integration by treating all groups with equal or equivalent access?

6.2.11 Compatibility with other systems

6.2.11.1 The goal

A system provides compatibility if it allows diverse users to use other systems as a means to interact with it to accomplish the task.

6.2.11.2 Discussion

This goal recognizes that in some cases some users might not be able to use a system without the assistance of some intermediary system. While it is not feasible to make all systems directly accessible to all people, the provision of compatibility can make it possible for diverse users to use assistive products or assistive technology to utilize the system.

NOTE In the IT domain compatibility is often referred to as *interoperability*.

6.2.11.3 Background

This goal is derived from the principles of “robustness” from ISO 9241-171^[5] and “robust” from ISO/IEC 40500.^[24]

NOTE See also the additional information in [3.2](#).

6.2.11.4 Common user accessibility needs

User accessibility needs include:

- to be able to use their own assistive products or assistive technology to interact with all the functionalities of the system;
- to have the system not interfere with their assistive products or assistive technology.

6.2.11.5 Questions to consider

- a) How could this deliverable ensure that diverse users can utilize their own assistive products or assistive technology (when needed) with any system that relates to it?
- b) How could this deliverable avoid limiting the ability of users to utilize their own assistive products or assistive technology (when needed) with any system that relates to it?
- c) How could this deliverable ensure that the systems that relate to it will be compatible with other systems across a range of contexts of use to facilitate accessibility by diverse users?

7 Human abilities and characteristics

7.1 General

7.1.1 Description

This clause provides information on human abilities and characteristics as well as associated design considerations. Standards developers can approach accessibility for system users by identifying the required user activities and the related human abilities and characteristics. The design considerations can inform the requirements and recommendations in standards.

The information on abilities and characteristics is organized according to the human body structures, human body functions, associated impairments and the consequences for overall functioning in terms of activity limitations and participation restrictions.

This clause provides general design considerations for system designs that maximize accessibility for users but does not identify the full range of design considerations to address all accessibility issues.

NOTE For further information about human abilities and characteristics refer to ISO/TR 22411.^[11]

In this clause terminology used to describe human abilities and characteristics that is directly from the World Health Organization's International Classification of Functioning, Disability and Health (ICF) is followed by the ICF reference code "ICF: bxxx" for Human Body Functions, or "ICF: sxxx" for Human Body Structures. [Annex B](#) provides an overview on how to use the ICF as a resource for terminology to describe people and their functioning.

7.1.2 Diversity of human abilities and characteristics

The abilities and characteristics of people change as they advance from childhood to old age and vary substantially among individuals in any particular age group. Activity limitations and participation restrictions can be experienced by all people and can be the result of unsuccessful interaction between individuals with impairments or health conditions and barriers such as personal and environmental factors. Health conditions (e.g. circulatory, respiratory, neurological), impairments in body functions and structures and related limitations can be temporary or permanent, not visible and generally increase with age. It is important to recognize that sensory, physical and cognitive limitations vary from comparatively minor (such as mild hearing loss, mild seeing impairment, mild mobility impairment or mild memory loss) to significant limitations (such as deafness, blindness, paralysis or significant memory loss).

Although some impairments are minor in nature, combinations of impairments can impose significant limitations, as is often the case in ageing. While not all older persons have impairments, the prevalence of disability or limitations is highest among this demographic group. It is also important to recognize that children with impairments can have specific requirements based on their disabilities; they also have general needs and preferences that are similar to those of other children.

7.2 Sensory abilities and characteristics

7.2.1 General

Sensory functions in this section include:

- seeing functions (see [7.2.2](#));
- hearing functions (see [7.2.3](#));
- touch functions (see [7.2.4](#));
- taste and smell functions (see [7.2.5](#)).

In general, sensory abilities decrease with age.

7.2.2 Seeing functions

7.2.2.1 Description

Seeing functions (ICF: b210) relate to sensing the presence of light and sensing the form, size, shape, contrast and colour of visual stimuli, as well as discriminating the location, distance and speed of objects. The seeing function comprises a variety of aspects such as visual acuity, near and distant vision, accommodation to changes in focus, field of vision, perception of colour and distance (or depth), adaptation to changes in light levels and sensitivity to light.

7.2.2.2 Impairments and limitations

Impairments and limitations can range from slight seeing impairments to complete blindness. Effects of impairments and limitations include:

- reduced ability to see images distinctly;
- reduced ability to change focus from near to distant objects, and vice versa;
- reduced ability to see things in one part of the field of vision (i.e. to the side, top, bottom or centre);
- reduced ability to distinguish colours, including effects due to age-related yellowing of the lens of the eye;
- increased sensitivity to glare;
- increased sensitivity to flashing lights or flickers;
- reduced ability to see contrast;
- reduced ability to judge distances and speed;
- reduced ability to see while the eye adjusts to different lighting levels;
- reduced sensitivity to light so that more light is needed to see.

Persons with blindness are considered to have very limited or no useful visual abilities and can rely on other sensory functions, such as hearing and touch, to obtain information.

Persons with seeing impairments can receive insufficient or distorted visual information and rely on auditory and tactile stimuli. Factors such as size, clarity (per se as well as in relation to surrounding factors including positioning and prominence in relation to field of vision), luminance and colour contrast can affect perception. Persons with significant seeing impairments (low vision) often require a higher contrast and can prefer light text on a darker background rather than darker text on a light background. They use other sensory functions such as hearing and touch functions to supplement visual information.

Adverse environmental conditions, such as poor lighting, smoke and fog, can reduce visibility and present many of the same types of effects listed above for many persons.

7.2.2.3 Design considerations

Design considerations that can facilitate accessibility include the following:

- multiple means of information presentation such as auditory or tactile to supplement or substitute for visual information;
- appropriate size, contrast, form, luminance, lighting and viewing distance in relation to context of use;
- avoidance of glare;

- redundant forms of coding to supplement or substitute for information conveyed with colour coding, e.g. shape or texture coding;
- appropriate physical construction and properties of fonts such as size, spacing, with or without serif, upright form or italics, and light, medium or bold appearance within a specific context of use;
- visual information and controls placed in a prominent position, or a positioning that is flexible, adjustable or duplicated;
- avoidance of flicker rates with flashing or blinking text, objects or video screens, especially those that can trigger visually induced seizures;
- distinctive form to facilitate identification of a product/environment and/or parts of a product/environment (including orientation, e.g. top/bottom, front/back, entrance/exit);
- coloured floor markings that draw attention to steps and potentially dangerous places;
- tactile floor indicators that draw attention to stairs, platform edges and pedestrian crossings;
- traffic lights equipped with acoustic signals to indicate when pedestrians can cross streets safely;
- accommodation of and compatibility with relevant assistive products and assistive technology.

NOTE Examples of assistive products, assistive technology and supports for persons with seeing impairments and blindness are guide dogs, guide assistants, talking Global Positioning Systems (GPS) devices, computers with dedicated computer software add-ons (e.g. screen reading software which simulates the human voice reading the text on computer screen or renders hard-copy output into Braille), talking clocks and thermometers, specialized bar code scanners, hand-held computers and tablets.

7.2.3 Hearing functions

7.2.3.1 Description

Hearing functions (ICF: b230) relate to sensing the presence of sounds including speech and discriminating the location, pitch, loudness, and quality of sounds.

7.2.3.2 Impairments and limitations

Impairments and limitations can range from slight hearing impairment to complete deafness. Effects of impairments and limitations include:

- reduced ability to detect the full range of sound frequencies, in particular higher frequencies;
- reduced ability to localize sound;
- reduced ability to detect low volume sound, especially when the ambient noise level is high or the distance between the sound source and the listener is large;
- reduced ability to discriminate sounds or speech especially when there is a high surrounding noise level or a large distance between the sound source and the listener;
- reduced ability to adapt to sudden changes in volume;
- reduced ability to discriminate and follow speech when two or more people are speaking at the same time;
- reduced ability to tolerate some frequencies and volumes (hyperacusis);
- reduced ability to separate speech, including instructions, from background sounds in recorded audio.

Persons with deafness can rely on other sensory functions to obtain information such as seeing and touch functions. Some people with deafness have difficulty understanding both written and spoken language.

Persons with hearing impairment can receive insufficient or distorted auditory information. The volume, frequency, and clarity of any sound can be important factors that affect audibility. Some persons with hearing impairments can also have difficulty assimilating auditory information that is presented at a rapid rate. They can use other sensory functions, such as seeing and touch, to obtain information.

Adverse environmental conditions such as noise (e.g. train stations, bars, restaurants) and voice messages in a foreign language can reduce audibility and present many of the same type of effects listed above for many persons.

7.2.3.3 Design considerations

Design considerations that can facilitate accessibility include the following:

- multiple means of information presentation such as visual (text or pictures) or tactile to supplement or substitute for auditory information;
- appropriate volume, pitch and frequency of spoken announcements, warnings and warning sounds in relation to context of use;
- adjustable volume over a wide range and with multiple frequencies;
- avoidance of sudden changes in volume of auditory signals;
- constant signal-to-noise ratio between the level of an announcement and that of the background noise;
- group assistive listening devices or communication systems such as induction loops, infrared or radio systems;
- emergency announcements that are visual with text, and where appropriate, in sign language, as well as of an appropriate volume and pitch decrease risk for persons with hearing impairment;
- a good acoustic environment, that reduces background sounds and promotes sound that is important to be heard;
- accommodation for and compatibility with relevant assistive products, assistive technology and supports.

NOTE Assistive products, assistive technology and supports for persons with hearing impairments and deafness include sign language, communication assistants, assistive listening devices (ALDs), visual communications technologies, live captioning, telecommunications devices for the deaf (TDD/TTY), text telephones, speech recognition technology, alerting devices with visual signals or vibration, hearing aids (traditional hearing aids and/or implants).

7.2.4 Touch functions

7.2.4.1 Description

Touch functions (ICF: b265) relate to sensing surfaces and their texture or quality. Included are functions of being sensitive to temperature, vibration, shaking, or oscillation, superficial pressure, deep pressure, and other stimuli.

7.2.4.2 Impairments and limitations

Impairments and limitations due to reduced and/or distorted touch function can vary.

Effects of impairments and limitations include:

- reduced ability to feel the difference between objects, surfaces, textures, etc.;
- reduced ability to feel temperatures and noxious stimuli (e.g. sharp edges, corrosive substances);
- reduced ability to handle and manipulate objects and controls;

- reduced ability to use touch screens or similar types of control devices.

Persons with impairments of touch functions can rely on other sensory functions, such as seeing and hearing, to obtain information. Persons with hypersensitive touch can be injured by stimuli which might cause only discomfort to other people. Persons who lack touch sensitivity are more likely to be injured by stimuli such as sharp edges and extremely hot/cold surfaces than are people whose greater sensitivity to touch allows them to take action to prevent injury in the presence of such stimuli.

Adverse environmental conditions, such as low ambient temperature, can present many of the same type of effects listed above for many persons.

7.2.4.3 Design considerations

Design considerations that can facilitate accessibility include the following:

- multiple means of information presentation such as visual or auditory information to supplement or substitute for tactile information or biometric controls;
- multiple means of control such as eye and voice control, sensors and automatic or remote controls;
- avoidance of sharp and uneven points/edges/surfaces;
- avoidance of excessively hot or cold surfaces which can be touched (even inadvertently);
- distinctive form to facilitate identification of a product and its parts, which in turn can facilitate use/handling/assembly.

7.2.5 Taste functions and smell functions

7.2.5.1 Description

Taste (ICF: b250) relates to sensing five basic qualities, through receptors on the tongue: bitter, sweet, sour, salt and savouriness (umami). Smell (ICF: b255) relates to the use of receptors in the nose to sense odours and smells. The two senses of taste and smell are used together to identify the odours and flavours which can normally be distinguished.

7.2.5.2 Impairments and limitations

Impairments and limitations due to reduced and / or distorted taste and smell functions can vary. Effects of impairments and limitations include:

- reduced ability to distinguish odours and flavours;
- reduced ability to identify dangerous or toxic substances such as detecting when food has deteriorated or hazards such as smoke.

Some persons with impairments or limitations of taste and smell functions rely on other sensory functions, such as seeing, hearing and touch, to obtain information.

Adverse conditions such as having a common cold can present many of the same type of effects listed above for many persons.

7.2.5.3 Design considerations

Design considerations that can facilitate accessibility include the following:

- multiple means of information presentation to supplement or substitute for information gained by taste and smell functions;
- information in labelling on ingredients, use by and expiration dates;

- visual and auditory signals to alert people to the presence of smoke or dangerous chemicals;
- information or labelling to warn about strong smell or taste;
- provision of minimal odours and taste, except where necessary (e.g. odours and taste are expected in foods).

7.3 Immunological system functions

7.3.1 Description

Immunological system functions (ICF: b435) of the body are related to protection against foreign substances, including infections, by specific and non-specific immune responses.

7.3.2 Impairments and limitations

Impairments related to immunological system functions such as allergies (immunological reaction to a substance) and hypersensitivities (non-specific response to a substance) vary and can cause reactions that range from mild or annoying to life-threatening. These impairments are generally divided into three categories: contact, food and respiratory. For the purposes of this clause, hypersensitivities related to chemicals in the physical environment are included.

Effects of impairments related to immunological system functions include reduced ability to tolerate exposure to, contact with, and/or ingestion of substance/s to which a body reacts. Such substances can act as barriers to the person's capacity to use systems.

7.3.3 Design considerations

Some design considerations that can facilitate accessibility include the following:

- avoidance of inclusion of allergens, sensitizing substances and chemicals known to cause hypersensitivities in products, foodstuffs and environments;
- appropriate information and labelling of ingredients/contents (including allergens, sensitizing and chemical substances known to cause hypersensitivities) in accessible format, the provision of this information being mostly subject to national or international regulation and which can include
 - a list of ingredients,
 - a separate statement that declares any major allergens or sensitizing substances included, and
 - warnings such as information regarding any change in composition of significance related to allergens and sensitizing substances;
- ventilation systems that filter out respiratory allergens;
- prevention of mould growth, e.g. by controlling level of indoor humidity, and following appropriate cleaning routines;
- avoidance of dust-collecting furnishings in public areas;
- availability of "allergy-free" areas such as smoke-free and allergy-free rooms in hotels, and animal-free areas in public transportation.

7.4 Physical abilities and characteristics

7.4.1 General

Activity limitations can result from various characteristics and impairment of physical abilities and result from interacting with systems that do not facilitate accessibility.

Physical abilities and characteristics in this section include:

- body size (see [7.4.2](#));
- upper and lower body movement (see [7.4.3](#) and [7.4.4](#));
- strength and endurance (see [7.4.5](#));
- voice and speech functions (see [7.4.6](#)).

7.4.2 Body size

7.4.2.1 Description of human body size, shape and related needs

Human body size is represented by sets of anthropometric data values for mass (weight) and a range of static linear dimensions of people measured when standing, sitting, and with arms relaxed or outstretched (arm reach). Significant variability in human size exists across age, and gender and in different regions of the world.

Human body size and shape can also differ significantly across a range of impairments or disabilities such as; amputation, short stature, natural height of a human in an upright position, tall stature and obesity. Old age generally causes a decline in stature.

Different anthropometric values are not normally directly proportional (e.g. body shape and mass cannot be calculated from stature). Multiple interrelated human size values affect the considerations related to accessibility.

Requirements for additional space can be associated with the presence of accompanying persons, service animals (any guide dog, signal dog, or other animal trained to provide assistance to an individual with a disability), assistive products, assistive technology and equipment. Associated equipment that effectively increases human size can include products such as protective clothing, orthotics, personal mobility aids, a child's stroller, and luggage.

The range of dimension and mass values for the smallest and the largest people and their equipment that will be interacting with the system can be used to determine design requirements and recommendations related to size, space and load. Systems that do not accommodate the size, shape or mass of some people can be very inconvenient, potentially hazardous and can completely restrict access.

7.4.2.2 Impairments and limitations

Impairments and variations in body size and space requirements vary and can cause difficulties ranging from slight inconvenience to significant activity limitations. Effects of impairments and variations in body size and space requirements as associated with accessibility can include:

- reduced ability to move around and control or interact with systems due to impairments that affect body size or shape such as amputations, growth variations, and body orientations such as seated postures;
- reduced ability to reach, see, step on to or otherwise interact with systems due to very small or short body size and shape characteristics;
- reduced ability to access, fit comfortably or otherwise interact with systems and / or to move across distances due to very large or tall body size and shape characteristics;
- reduced ability to be present in an environment and interact with systems due to lack of additional space for necessary caregivers, service animals and / or equipment.

7.4.2.3 Design considerations

Design considerations for size, space and load capacities of systems that can facilitate accessibility include the following:

- additional space in built environments;
- space for clothing and personal protective equipment;
- multiple size offerings and / or adjustability;
- height clearance for tall persons;
- width clearance for large persons;
- step heights and reach distances for small persons;
- space for assistive products, assistive technology, service animals and accompanying persons;
- load capacities of system components appropriate for larger mass (weight) requirements;
- systems with a clear line of sight to important components for seated or standing users;
- systems with a comfortable reach to all components for seated or standing users;
- grip sizes in systems components that accommodate variations in user sizes and shapes.

7.4.3 Movement: Functions of upper body structures and fine hand use abilities

7.4.3.1 Description

Upper extremities (ICF: s730) structures include shoulder, upper arm, elbow, forearm and hand.

Fine hand use relates to dexterity and manipulation, and includes:

- picking up, grasping, manipulating and releasing objects and performing the coordinated actions of handling objects;
- picking up, manipulating and releasing objects using one's hand, fingers and thumb, such as when lifting objects off a table or turning a dial or knob.

7.4.3.2 Impairments and limitations

Impairments in movement-related functions of upper body structures can affect the person's balance, coordination, sensation, and movement of head, hands, and body. Effects of impairments and limitations include:

- reduced ability to turn and bend objects and other impairments in range of motion of hands;
- reduced ability to bring thumbs and fingers close together or an inability to separate them very far;
- reduced ability in complex operations, such as pushing and turning objects;
- reduced ability in tasks that involve coordination and precision, such as opening packaging, dealing with fastenings, threading a needle;
- inadvertent or involuntary movement (e.g. tremor) that interferes with fine hand use;
- reduced ability to reach distant objects, or objects on the floor due to limited range of motion of shoulder joint and/or elbow joint;
- reduced ability to manage heavy or bulky objects due to weakness or musculoskeletal temporal injury in the upper body;

- reduced ability caused by use of non-dominant hand (left or right).

7.4.3.3 Design considerations

Design considerations that can facilitate accessibility include the following:

- manufacturing materials of lighter weight or lower density to reduce the weight of products;
- products shaped to facilitate easy grasping, lifting and carrying with either or both hands;
- manual controls that allow a comfortable grip, avoid the need for twisting of the wrist, and offer minimal resistance;
- controls that avoid the need to manipulate multiple controls at the same time;
- non-slippery surface that aids gripping and manipulating for people with limited dexterity;
- textured surfaces, to increase friction, and facilitate the application of force;
- design and spacing of controls that guard against inadvertent activation of a control other than the one intended;
- containers that allow easy opening and closing with reasonably low attainable operating force;
- simple and straightforward sequences for opening of packaging and assembling, installing or operating a product;
- avoidance of simultaneous double movements, e.g. pushing and twisting;
- alternative controls for accommodation of upper body movement impairments.

NOTE When accurate positioning of an object is required, consideration is taken so that the hand(s) can hold it properly and comfortably with a clearly perceived spatial orientation (taken from ISO/TR 22411:2008, [11](#) 7.3.1.1).

7.4.4 Movement: Functions of lower body structures

7.4.4.1 Description

Lower extremity (ICF: s750) structures include:

- hip, thigh, knee, lower leg, ankle and foot.

Movements of lower body structures include:

- maintaining and changing the body position and transferring oneself from one area to another;
- walking, climbing stairs, and moving around which might involve using any equipment and/or assistive products such as wheelchairs or walkers;
- moving objects with lower extremities such as pushing and kicking.

7.4.4.2 Impairments and limitations

Impairments in movement-related functions of lower body structure can affect a person's balance, coordination, sensation, and movement of body, thigh, leg, ankle and foot. Effects of impairments and limitations include:

- reduced ability to walk, move around, climb stairs or ladders, and transfer from one place to another;
- reduced ability to drive or otherwise make use of transportation means;
- reduced ability to control the body when turning, bending, or maintaining balance;

- difficulty in kneeling, sitting down, rising, standing, walking, and /or climbing stairs or ladders;
- reduced ability to perform coordinated actions aimed at moving objects by using legs and feet;
- increased potential for slipping, tripping, or other balance disturbances that can cause falls;

NOTE Balance disturbances sometimes require rapid responses in joint rotations and limb movements, placing extraordinary demands on the balance control system. Even very small bumps and protrusions can cause tripping. Impairments in vestibular nerve function can also cause disturbances to balance.

- an increased fear of falling due to balance impairment.

Adverse conditions such as wearing shoes that are heavy or have slippery soles or high heels can impair movement.

7.4.4.3 Design considerations

Design considerations that can facilitate accessibility include the following:

- slip-resistant, threshold-free layout, e.g. in buildings and paved outdoor environments;
- avoidance of sudden changes in surface level, obstacles, bumps or protrusions;
- equipment, such as elevators and other lifting systems;
- ramps with appropriate slopes and adequate space to allow for approach and manoeuvring, and use of wheelchairs, walking frames, or walking aids;
- stairs with appropriate dimensions and banisters or hand grips alongside;
- ample time for persons with mobility limitations to pass through automatic doors and to use pedestrian crossings.

7.4.5 Muscle power and muscle endurance

7.4.5.1 Description

Muscle power (ICF: b730) functions relate to the force generated by the contraction of a muscle or muscle group.

Muscle endurance (ICF: b740) functions relate to sustaining muscle contraction for the required period of time.

Related activities include lifting and climbing that can involve whole body functions.

7.4.5.2 Impairments and limitations

Impairments in muscle strength in the body can have a considerable impact on activities of daily living and on the quality of life. Effects of impairments and limitations include:

- reduced muscle power and endurance;
- reduced grip strength making it difficult or painful to operate a system against resistance or torque;
- fatigue when use of a system requires prolonged activity;
- reduced control of passive movement (i.e. when an external force such as gravity causes the motion) resulting in difficulties, e.g. lowering a heavy object to the ground or sitting down on a chair.

Adverse conditions, such as slippery or uneven surfaces, wearing shoes that are heavy, have slippery soles or high heels, present many of the same type of effects listed above for many persons.

7.4.5.3 Design considerations

Design considerations that can facilitate accessibility include the following:

- use of power grip (whole hand) which requires less effort than pinch grip (between thumb and index or middle finger);
- appropriate handling characteristics (e.g. size and weight) for systems that involve lifting, holding, carrying or opening;
- avoidance of long handling time and unnecessary repetition of operations;
- avoidance of long service lines that cause people to stand unsupported for long periods of time;
- alternative means of control in vehicles to accommodate lower body movement.

7.4.6 Voice and speech

7.4.6.1 Description

Voice relates to the sound produced by the vocal organs, usually as speech (ICF: s398).

The voice function (ICF: b310) comprises a variety of aspects such as articulation, volume, fluency, speed, melody and rhythm.

Impairments include voicelessness (aphonia), defective use of the voice (dysphonia), rough and harsh voice (hoarseness), stammering and stuttering.

Related activities include speaking and conversing.

7.4.6.2 Impairments and limitations

Impairments in voice and speech can affect a person's ability to communicate and convey information with speech. Effects of impairments and limitations include:

- reduced social interaction;
- reduced participation in activities;
- reduced ability to interact with systems that use voice input.

Adverse environmental conditions, such as high levels of ambient noise, can present the same type of effects.

7.4.6.3 Design considerations

Design considerations that can facilitate accessibility include the following:

- alternative forms of communication such as via text, facial expressions, hand movements or signs, body postures, and other forms of body language;
- augmentative and alternative communication based on symbols, aids, techniques, and/or strategies;
- support for the use of assistive products such as speech synthesizers and communication amplifier and video communication;
- provision of alternative means to interact with interactive voice systems and intercom systems, such as real-time text.

7.5 Cognitive abilities

7.5.1 Description

Cognition is the understanding, integrating and processing of information which includes abstraction, organization of ideas, reasoning, analysis and synthesis (ICF: b164). Cognition is complex and dependent on a number of mental functions (ICF: b1) including:

- 1) global mental functions such as intellect, consciousness, energy and motivation;
- 2) specific mental functions, such as
 - perception (ability to recognize and interpret stimuli),
 - attention (ability to sustain, shift, divide, and/or share attention),
 - learning,
 - memory (ability to register, store and/or retrieve information as needed),
 - language (ability to produce and understand),
 - reasoning,
 - problem solving,
 - decision making, and
 - reading;
- 3) affective (emotional) functions.

7.5.2 Impairments and limitations

Impairment of global mental, specific mental and/or affective function (listed above) can occur and cause limitations for any person including those with average and high intellectual functioning.

Cognitive impairments can be related to limitations such as reduced capacity to carry out activities and/or difficulties with social participation.

Impairments and related limitations can affect:

- ability to plan, initiate, carry out and terminate activities;
- ability to organize thoughts and activities;
- ability to sustain attention, concentrate on important stimuli/information and ignore distractions;
- ability to multi-task (i.e. to divide attention among several operations, tasks or individual task elements);
- ability to maintain skills (e.g. how to drive a car);
- speed in performing tasks/activities and in responding in a timely manner;
- ability to store and retrieve information (e.g. remember episodes in relation to time, recall facts);
- ability to perceive information (e.g. accurate and fluid word recognition);
- ability to learn;
- ability to make generalizations and associations;
- ability to solve problems including recognizing the problem, identifying, choosing and implementing solutions, and evaluating outcomes;

- ability to understand and/or express oneself (e.g. comprehension, communication, speech, fluency, writing, repetition, naming, signs, symbols);
- capacity for self-control and self-motivation (including increased irritability, rigidity, lower stress tolerance, confusion, disorientation, anxiety, loneliness and depression);
- preference for different learning or information understanding styles such as text-based vs. graphics-based styles.

Adverse environmental conditions, such as high levels of environmental stimuli (e.g. flashing lights, crowds of people), can overwhelm or confuse many persons and present the same type of effects listed above for many persons.

7.5.3 Design considerations

Design considerations that can facilitate accessibility include the following:

- information about time and place;
- schedules, structures, signals to indicate start and termination of activities;
- an overview that informs the user what to expect before providing any details;
- appropriate feedback/cues/reminders that hold the user's attention and give support through a process;
- feedback that is adjustable to the needs and preferences of users;
- environments and presentations that are stimulating but also avoid distractions;
- systems and procedures that adapt to individual situations, abilities and preferences;
- similar arrangement/layout and design of feedback and control logic on products of a similar type;
- similar design of feedback and control logic on products of a similar type;
- error-tolerant operating sequences;
- flexible time period for assimilation of information and response;
- simple and straightforward sequences for opening of packaging and assembling, installing or operating a product;
- information provided in multiple formats, e.g. text is read out, diagrams are provided in addition to text;
- information and instructions that are easy to understand in the language of the user;
- explicit information on expectations placed on the user;
- systems that can be used (as far as possible) without an instruction manual;
- procedures that facilitate learning (learning by doing is generally easier than memorizing instructions, repetitions);
- multiple means of information presentation (e.g. text is read out, widely recognized symbols);
- emergency evacuation routes designed so that they are intuitive and easy to follow which clearly designate any alternative routes that accommodate for persons with disabilities;
- accommodation for/compatibility with relevant supports and assistive products and assistive technology.

NOTE Examples of assistive products, assistive technology and supports for persons with cognitive impairments are assistants, computers with dedicated computer software, hand-held computers and tablets.

Design considerations that accommodate persons with varying cognitive impairments are also advantageous for most people because they reduce cognitive load (e.g. facilitate memory, decrease errors, and facilitate solving complex problems).

8 Strategies for addressing user accessibility needs and design considerations in standards

8.1 General

Whether standards developers identify user accessibility needs using the accessibility goals approach or design considerations using the human abilities and characteristics approach, these needs and considerations can be translated into specific accessibility requirements and recommendations in standards. This clause provides eight strategies that standards developers can apply in order to write specific accessibility requirements and recommendations in standards.

The strategies represent the potential means by which a specific identified user accessibility need or design consideration might be met. Standards developers should consider and select the strategy or strategies that can best be applied to transform the needs and considerations into requirements and recommendations given the context and particulars of the standard they are developing. In some instances multiple strategies will be needed to meet a single identified user accessibility need or design consideration, and sometimes the application of a single strategy will be able to address multiple needs or considerations. Further, these strategies are applicable to the design of user interactions, tasks and activities, as well as to the design of the system itself. The strategies presented are those widely used to address user accessibility needs and design considerations, and do not constitute an exhaustive set.

Following the presentation of each strategy are one or more examples describing requirements/recommendations that might result from the application of that strategy in a particular standard's context. These examples are for illustrative purposes only and are not intended to represent guidance that exists in actual standards. In practice, standards differ widely in the depth and level of detail of their requirements and recommendations.

8.2 Developing standard-specific requirements and recommendations based on user accessibility needs and design considerations

8.2.1 Provide multiple means of information presentation and user interaction

8.2.1.1 General

Consider using more than one means of presentation by which users can perceive the same information and multiple means by which users can interact with the system to achieve a given objective, whether it is to perform a task, engage in an activity, or to obtain or use a service.

8.2.1.2 Provide multiple means of information presentation

Providing more than one means of presentation by which users can perceive the same information entails 1) presenting information via more than one sensory modality (as in Example 1 below) and/or 2) providing information in more than one form within the same sensory modality (as in Example 2 below). This basic strategy is sometimes called alternative formats. Thus, the same information might be provided to users through the auditory and the visual senses, the visual and the tactile senses, or the auditory and the tactile senses. In some less common instances, other sensory modalities (e.g. taste, smell) can be used in combination with visual, auditory, or tactile senses.

EXAMPLE 1 A standard for paging systems could require that the pager signal be presented through the vibration of the pager as well as through an auditory or visual display.

EXAMPLE 2 A standard for video recorder instruction manuals could require that a visual illustration of a video recorder and its controls be provided, along with a textual description of the same information.

8.2.1.3 Provide multiple means of user interaction

It is important that people have more than one way to complete a task or activity or to interact with a system to achieve the same objective(s). Standards developers can specify in their standards that these multiple means be provided.

EXAMPLE 1 A software standard could require that the user be able to enter data into the system using a keyboard or voice input, with both options being available.

EXAMPLE 2 A standard for a home appliance could require that users be able to operate the controls of the appliance with either the right or the left hand. The controls are to be oriented to be equally usable by either hand.

EXAMPLE 3 A customer service standard could require that users be able to initiate contact with customer service via either a telephone call or an e-mail message.

EXAMPLE 4 A building standard could specify that both stairs and an elevator be provided by which users can move from one level of a building to another.

8.2.2 Set fixed parameters to accommodate the widest range of users

When there is a need to fix a design parameter at some value, for example the minimum door width in a public building, consider setting that value so that it minimizes the number of people whose accessibility might be limited by it.

Many design parameters can only be set to one specified value. There can only be one width for a conventional door in a given building, for example, and the weight of a given consumer product like a tablet computer has a specific value. In these cases standards developers should consider whether the chosen value for the design parameter is the best choice in order to accommodate the widest range of users.

Finally, it is desirable to question whether a design parameter being considered as fixed could actually be adjustable to meet more accessibility needs, as illustrated in Example 3 below.

EXAMPLE 1 A standard's requirement for an auditory signal for a laundry dryer to indicate that the laundry is dry could mandate that the signal be composed of multiple frequencies with the centre frequency between 400 Hz and 2 000 Hz. The standards developer has considered whether this specification is appropriate for meeting the need for the widest range of users to be able to hear the signal.

EXAMPLE 2 A public building standard specifies a suitable minimum door width to accommodate the passage of large persons and/or wheelchair users.

EXAMPLE 3 In health care, examination tables in clinics often have a fixed height. Having evaluated the user accessibility needs and design considerations from the patient and the examiner perspective, the standard developer recognizes that examination tables need to be height-adjustable. In this case, what was a fixed design parameter becomes an adjustable parameter, and requirements in the standard are written to reflect that.

EXAMPLE 4 A postal service standard could limit the weight of packages for delivery (e.g. to 18 kg, rather than 27 kg), so that a greater percentage of postal workers will be able to lift and carry any package that is sent.

8.2.3 Set adjustable parameters to accommodate the widest range of users

Consider whether the range of adjustability for adjustable parameters is sufficient to enable access for the largest number of users.

Providing adjustability is one of the strategies most commonly used for addressing some accessibility needs, particularly when those needs vary widely with respect to a particular design parameter.

EXAMPLE 1 An automobile's control for forward/backward seat adjustment is designed so that drivers with the shortest and longest legs can be comfortably accommodated, as well as people who require additional space between their spine and the steering wheel.

EXAMPLE 2 The range of volume settings provided for a set of headphones can accommodate as many hearing disabilities as possible.

8.2.4 Minimize unnecessary complexity

8.2.4.1 General

The greater the complexity of user tasks and activities and the systems with which those tasks are performed, the more likely it is that some people will experience accessibility problems, and the more likely they will be to make errors that prevent them from achieving their objectives. There are cases in which complexity is necessary, and also cases in which complexity is desirable. Nevertheless, it is important to simplify and streamline many designs to eliminate unnecessary and/or undesirable levels of complexity to enable the greatest number of people to perform tasks, to access and receive services, and to use products and navigate or otherwise use the built environment. It is also important that complex systems with many features are designed so that they do not obscure basic system functionality.

There are many aspects of design that affect overall complexity, and thus many means (i.e. “sub-strategies”) that can be considered by standards developers for reducing unnecessary complexity, as illustrated below.

8.2.4.2 Simplify the language

Systems involving user instructions that employ jargon, poor sentence construction, and terminology that exceeds the language comprehension of the user can interfere with users’ understanding and use of the system. Using well-constructed sentences and commonly used vocabularies, as well as avoiding jargon, will increase accessibility.

EXAMPLE A standard about the design of instructional materials for home appliances specifies that all instructional materials should be written at the reading level of a 12-year-old child.

8.2.4.3 Simplify the performance requirements of user activities and tasks

Systems that require users to perform long sequences of steps to accomplish a task, and require that those steps be executed in a particular order, increase the chance of errors and decrease the chance that some users will be able to achieve their objectives. When unnecessary steps can be eliminated or when users have flexibility in executing steps (such as pausing or saving and resuming later) accessibility can be increased.

NOTE Sometimes this strategy can involve re-allocating certain task steps or activities to technology to execute.

EXAMPLE A standard for cellular phones specifies that the cellular phone user should be able to initiate a call simply by saying the name or touching the name or picture of the person as displayed in the contact list. This eliminates the task of entering the phone number when making a call, which can be problematic for people who have difficulty correctly reading and remembering phone numbers, as well as for those who have difficulty with physically entering the numbers on the phone.

8.2.4.4 Ensure that basic functionality is easily accessible

An accessibility problem can occur when optional features are implemented in such a way that they obscure the basic functionality of the system. In that case, they can become a barrier to the access and use of the primary system functionality intended. A way of avoiding this problem is to ensure that the basic system functionality is easily accessible and usable — i.e. it is not obscured by the optional features that only serve to distract or confuse some users. There are many ways in which this strategy can be applied in practice, some of which can involve the use of other strategies introduced in this clause.

EXAMPLE A standard for the design of consumer product instructions requires that instructions regarding use of the basic functionality be presented first, while discussion of optional or advanced features is contained in a later section, clearly separated from those for the primary system functionality. For complex products, it also specifies that a “Quick Start” Guide be provided, addressing only the basic operation of the product.

8.2.4.5 Provide unambiguous options for using information and making decisions

Decisions can be difficult for users if they do not understand the options available at any given point in a task or activity and at any point during the use of a system. Supporting users in their use of information and in decision-making will help to increase accessibility and ensure that all users can achieve their objectives. Nonverbal means of communication (audio, video, icons etc.) should be provided.

EXAMPLE 1 A standard for voice messaging systems specifies that the system should provide a feature that allows users to query the system at any point about the options that are currently available to them in the system.

EXAMPLE 2 A hospital design standard includes specific requirements for visual and tactile markings intended to guide visitors to the major departments within a hospital.

8.2.5 Provide individualized access to a system

Individualization involves meeting user accessibility needs as determined by an individual user. Using this strategy ensures that an individual's specified needs are met. In order to do this, the individual's specific needs must be identifiable. Systems that are controlled by or have embedded Information and Communications Technology (ICT) lend themselves particularly well to individualization because of the relative ease of access to an individual's requirements (which might be stored or accessed electronically) and the ease of adaptability of many such systems. Many services are also easily individualizable where individual user accessibility needs, can be identified.

Reasons to adopt this strategy include personal security, confidentiality, commercial convenience, preservation of dignity or conflicting individual needs.

EXAMPLE 1 A standard relating to a tablet operating system specifies a data model format for storing a set of individual accessibility preferences in the cloud so as to enable use of the same set of preferences on multiple devices.

EXAMPLE 2 A university learning management system delivers online educational content matched to each individual learner's accessibility preferences and the characteristics of the device on which the content is being delivered at the time. The system follows a national standard that specifies that learning content must meet an individual's needs and preferences represented in a format that is specified by a particular international standard for preferences.

EXAMPLE 3 A standard specifies how a credit and debit card payment system can identify and access accessibility preferences stored separately from the card. This enables devices such as automatic teller machines and payment terminals to adapt to the same set of individual preferences in different contexts of use. Another part of the same standard specifies how a set of accessibility preferences can be created, edited and stored.

EXAMPLE 4 A quality standard relating to the provision of support services stipulates that a college administration system should make bookings for sign-language interpreters for particular students for particular lessons and transcription services that provide a written record of what the lecturer said. Where possible interpreters are matched to individual students to provide continuity. It recommends that transcription should be provided where individual user accessibility needs require it.

8.2.6 Eliminate unnecessary limits or constraints on user interactions with a system

People engage in tasks and activities in different ways. By limiting the ways in which a user can engage or interact with a system, accessibility can be decreased or even made impossible for some users. One of the most frequently encountered, and often unnecessary, types of design constraints is the constraint on the time a user has to complete a task or activity. Everyone does not do things at the same pace, and standards developers can consider removing time-based constraints as a means of increasing accessibility. Systems that allow users to extend the time available can increase accessibility.

Other types of constraints also exist (e.g. space constraints, knowledge-based constraints) that standards developers can consider eliminating if it would increase accessibility for users.

EXAMPLE A standard on phone-based customer service requires account numbers to be entered using a telephone keypad. The standard does not limit the amount of time the user has to enter the account number, but specifies that the software will continue to process keystrokes until the entire account number is entered, regardless of the pace of those keystrokes.

8.2.7 Provide compatibility with assistive products and assistive technology

In situations in which users might need to use assistive products and assistive technology to access a system, the responsibility of standards developers is to ensure that the system provides compatibility with commonly used assistive products and assistive technology so that users can achieve their goals.

EXAMPLE 1 A standard for a software product specifies that all information presented by the application shall be available to screen-reading software.

EXAMPLE 2 A hospital building design standard specifies which areas of the hospital shall be wheelchair-accessible.

8.2.8 Provide alternative versions of a system

Although it is highly likely that companies will have made decisions about alternative versions of a system (called product lines in some contexts) long before standards are written, they may not have done so based on accessibility considerations. It is quite possible that the standard development activity itself will identify the need for a revision of the design or, as a last resort, an additional version of the system based on accessibility considerations. Thus, this strategy is included here and can be considered by standards developers who are addressing user accessibility needs or design considerations that have not been identified or met during the design process. Obviously, the strategy itself can only be implemented by designers, and the standards developers' role is to identify the need for a design approach to enhance accessibility and to provide to those responsible for design the appropriate guidance to undertake it.

EXAMPLE A standards committee recognizes during the context of producing a standard on gardening tools that the accessibility needs of people with relatively small hands are not being well met by the design of the gardening tools currently available. In considering how best to address this, the committee decides that an alternative product line is the best and perhaps only way to resolve the issue because of the large differences in the relevant hand dimensions that exist in the user population.

Annex A (informative)

Global trends supporting accessibility

A.1 General

Significant changes have occurred during the past few decades related to how disability and accessibility are understood and represented. In response to the world's ageing population and global consumer markets becoming increasingly diverse, various models of disability have been created, as well as new laws and regulations, policies, standards, and design trends.

A.1 Trends in global demographics and market diversity

According to the *World Report on Disability* (published by the World Health Organization and the World Bank in June 2011,^[40] approximately 15 % of the world population (over one billion people) has some type of temporary or permanent disability, and 80 % of these individuals live in developing countries. There are often barriers that prevent individuals from participating fully in society.

With an ageing population, the demand for accessible and usable systems is increasing. In addition, global markets composed of users from different countries, regions, cultures and races make it a necessity to consider users' varying abilities and characteristics, different knowledge bases and expectations in the design of various systems. The requirements for accessibility of systems as perceived and experienced by users is a key driver in system design and development.

A.2 Models of disability

The world's changing attitudes about disability and accessibility have been reflected in the "models of disability" created in the past few decades.

The earliest model was the "medical model," which described disabilities with reference to the medical conditions they were seen to arise from. The focus of disability management was on professionals curing or treating the underlying condition.

Another model, developed in response to the medical model was the "social model" of disability. This revolutionized the understanding of disability by arguing that it was not mainly caused by impairments but by the way society was organized and responded to people with disabilities. In the social model, disability is the product of the physical, organizational and attitudinal barriers present within society.

These models informed development of the "human rights model" of disability, which typically expressed a moral and political commitment that countries, states and organizations should take in regard to persons with disabilities.

A.3 Trends in regulatory frameworks and governmental policies and standards

The *United Nations Convention on the Rights of Persons with Disabilities* (UNCRPD^[36]) is the basic international framework addressing the rights of persons with disabilities. The Convention had been signed by end 2014 by some 160 countries and ratified into national law by some 150 countries, making progress towards increasing the accessibility of public facilities and services a national obligation.

Partly in response to the UNCRPD, in many countries government procurement rules require that products and services meet certain accessibility requirements as a precondition to qualify to participate in public procurement. These government measures contribute to the growing size of the market for accessible

products and services. The UNCRPD, (in Article 4 (f) General Obligations) promotes Universal Design in the development of standards and guidelines for goods, services, equipment and facilities.^{[36],[37]}

Considered globally there is a general trend away from national approaches to accessibility that classify and separate people with disabilities towards more integrated international approaches that recognize users as individuals who have a variety of unique needs. This is demonstrated by the development of initiatives to devise cohesive approaches to accessibility that are inclusive such as W3C Web Content Accessibility Guidelines,^[38] *Section 508 of the Rehabilitation Act*,^[35] the work of the ISO/IEC JTC 1 *Special Working Group on Accessibility*,^[26] Mandates 376, 420 and 473 in Europe^[29] and many others, including this Guide.

A.4 Trends in design

Universal design and similar concepts (such as: inclusive design and design for all) refer to making systems usable to the widest possible range of users. These concepts go beyond concepts such as barrier-free design, by removing differentiations between persons with and without disabilities and including all persons as potential users within a diverse population. It is the intent of these concepts that “mainstream” systems be usable by as many persons as possible (although this does not mean that all users can be expected to use a system in the same manner).

These concepts recognize that human beings can benefit from accessible systems in various contexts throughout their lives. Features that make products and services usable for persons with disabilities can also make them convenient and easy to use for everyone else. This is particularly helpful when people have temporary difficulties, such as lost glasses, a broken leg or a journey with a pram/stroller or bulky luggage. Increased accessibility and usability often result, therefore, in better products and services for all.

NOTE There are minor distinctions between what each of these terms mean to the many people and organizations worldwide that use them. However, in recent years terms such as universal design, accessible design, design for all, barrier-free design, inclusive design and transgenerational design are often used interchangeably with the same meaning.

Annex B (informative)

The *International Classification of Functioning, Disability and Health* (ICF) as a resource for terminology

B.1 Function of the ICF as a resource for terminology

Terminology and associated reference codes from the *World Health Organization's International Classification of Functioning, Disability and Health* (ICF) 2001^[39] are used in parts of this Guide to describe human abilities and characteristics. The ICF classification provides a resource for terminology that can be used in some parts of standards.

ICF terminology is used across broad sectors including health, disability, rehabilitation, community care, insurance, social security, employment, education, economics, social policy, legislation and built environment design and modification.

B.2 ICF resource tools

Standards developers new to the ICF can find Introduction and User Guide resources at the following websites to begin using the ICF. The "ICF Browser" is a word search tool that can be used to view terminology for use in standards.

An ICF Introduction and User Guide tutorial is available at: "ICF Illustration Library"

http://www.icfillustration.com/icfil_eng/top.html

A word search tool to locate ICF terms and codes is available at: "ICF Browser":

<http://apps.who.int/classifications/icfbrowser/>

The ICF Browser search tool can also be found from the World Health Organization main website at:

www.who.int

B.3 ICF Components Terminology and Reference Codes

The definitions of the ICF component terms and their reference code letters are:

- **Body functions** ('b') are the physiological functions of body systems (including psychological functions).
- **Body structures** ('s') are anatomical parts of the body such as organs, limbs and their components.
- **Activity** ('d') is the execution of a task or action by an individual.
- **Activity limitations** are difficulties an individual may have in executing activities.
- **Participation** ('p') is involvement in a life situation.
- **Participation restrictions** are problems an individual may experience in involvement in life situations.
- **Environmental factors** ('e') make up the physical, social and attitudinal environment in which people live and conduct their lives.
- **Impairments** are problems in body function or structure such as a significant deviation or loss.

ICF reference code letters are followed by a series of code numbers for ICF components. Each additional digit in an ICF code number indicates a more detailed sub category level of information in the ICF classification. An example of a general ICF category is “b2 Sensory Function” and a sub-category would be “b230 Hearing Function”.

B.4 Human abilities and characteristic terms to use as search terms in the ICF

Table B.1 below provides a list of Abilities and Characteristics terms used in parts of this Guide that align with a list of terms that can be used in the “ICF Browser” search box to help to find terminology used in the ICF.

Table B.1 — Human abilities and characteristics in Guide 71 and search terms to use in ICF Browser

Abilities and Characteristics terms used in Guide 71	Search terms to enter in the “ICF Browser” search box at: http://apps.who.int/classifications/icfbrowser/
Sensory Abilities	Sensory
Seeing function b210	See, Vision, Eye, Watching, Communication
Hearing function b230	Hear, Ear, Sound, Listen, Communication
Touch Functions b265	Touch, Skin, Tactile, Vibration, Pressure
Taste and Smell b250/255	Taste, Smell, Tongue, Sensing, Odours
Immunological System b435	Immune, Allergic, Sensitivity, Substance
Physical Abilities	Structures, Functions
Body Size	Neuromusculoskeletal, Weight, Space
Upper Body s730	Movement, Joints, Arms, Hand, Reach
Lower Body s750	Movement, Mobility, Muscle, Foot, Walk
Strength/Endurance b730	Movements, Muscles, Endurance,
Voice and Speech b398/310	Voice, Speech, Pitch
Cognitive Abilities	Mental Functions
Global Mental b110–139	Orientation, Intellectual, Personality, Energy
Specific Mental b140–189	Attention, Memory, Perception, Language

B.5 Additional resources other than the ICF for terminology reference frameworks

When the ICF does not provide appropriate terminology to describe concepts in a standard, the literature suggests considering the following international reference frameworks for terms about personal factors or the built environment:

Terms to describe Personal Factors can be found in the *Systematized Nomenclature of Medicine - Clinical Terms* (SNOMED-CT), available at: <http://www.ihtsdo.org/snomed-ct/>.

Terms to describe components of the physical and built environment can be found in the frameworks, OmniClass^[33] and UniClass,^[34] available at: <http://www.omniclass.org/background.asp>.

Annex C (informative)

Questions to aid in achieving the accessibility goals

[Table C.1](#) provides a check list to aid standards developers in asking, answering, and applying the various questions related to the accessibility goals from [Clause 6](#). The questions from [Clause 6](#) appear in the left column, entitled “Question”. The middle column, entitled “Answer”, can be used to record the answer to each of these questions and can include sources that have led to these answers. The right column, entitled “Clause(s)/subclause(s) of deliverable”, is used to record the particular sections of the deliverable that would be affected by the answers to the questions.

NOTE The term “deliverable” is used to describe all types of documents that are produced taking into account the accessibility goals in this clause, such as standards, technical specifications, technical reports, publicly available specifications, guides, ITU recommendations or workshop agreements.

Table C.1 — Checklist for the questions related to the accessibility goals

Question	Answer	Clause(s)/subclause(s) of deliverable
6.2.1.5 a) Who are the potential users of systems that will be addressed by or who relate to this deliverable?		
6.2.1.5 b) Which potential users, if any, might be excluded by the requirements and recommendations of this deliverable?		
6.2.1.5 c) What are all the contexts of use in which systems that relate to this deliverable could be used?		
6.2.1.5 d) Which contexts of use might be excluded by the requirements and recommendations of this deliverable?		
6.2.2.5 a) What are the expectations / user experiences of the diverse users of systems that relate to this deliverable?		
6.2.2.5 b) Is there any available information on frustrated or confirmed user expectations with products affected by deliverables in this domain?		
6.2.2.5 c) What conflicts with potential user expectations could result from using this deliverable?		
6.2.2.5 d) What new user expectations will be created by using this deliverable?		

Table C.1 (continued)

Question	Answer	Clause(s)/subclause(s) of deliverable
6.2.3.5 a) What aspects of user interaction with systems that relate to this deliverable should the user be able to individualize?		
6.2.3.5 b) What aspects of user interaction with systems that relate to this deliverable could present barriers for some users if they are not individualizable?		
6.2.3.5 c) What recognized or innovative sets of individual options or preferences could be recommended by the deliverable for potential implementation within systems?		
6.2.3.5 d) How could the context in which the deliverable is used affect the identified individual options or preferences that are needed?		
6.2.4.5 a) How could this deliverable ensure that resulting systems that relate to this deliverable it can be physically and psychologically approached by diverse users so that they can perform their tasks?		
6.2.4.5 b) How could this deliverable ensure that systems that relate to this deliverable be remotely approached by diverse users to perform their tasks?		
6.2.4.5 c) How could this deliverable avoid limits to physical, psychological or remote approachability for diverse users in diverse contexts of use?		
6.2.5.5 a) Within the scope of this deliverable, what information should be presented by systems to users?		
6.2.5.5 b) How could this deliverable ensure that diverse users in diverse contexts can perceive the information presented in systems that relate to deliverable?		
6.2.5.5 c) How could this deliverable limit the modalities that a system uses to present information to users?		
6.2.6.5 a) For systems within the scope of this deliverable, what information and functionalities should be presented that would need to be understood by users?		

Table C.1 (continued)

Question	Answer	Clause(s)/subclause(s) of deliverable
6.2.6.5 b) How could this deliverable assist in ensuring that the information and functionalities of the system are understandable for diverse users?		
6.2.6.5 c) How could this deliverable support diverse users to learn how to use the information and functionalities of systems that relate to it?		
6.2.6.5 d) How could this deliverable ensure that systems avoid making unnecessary cognitive demands on potential users?		
6.2.7.5 a) For systems within the scope of this deliverable, what control actions should users need to be able to initiate and complete?		
6.2.7.5 b) How could this deliverable ensure that diverse users in diverse contexts of use are able to initiate and complete the actions that are required to accomplish their tasks?		
6.2.7.5 c) How could this deliverable avoid limiting the modalities that a user can use to initiate and complete the actions that are required to accomplish their tasks?		
6.2.8.5 a) How could a system that relates to this deliverable assist diverse users in diverse contexts to effectively accomplish their tasks?		
6.2.8.5 b) How could a system that relates to this deliverable assist diverse users in diverse contexts to accomplish their tasks in a manner that is efficient to each of them?		
6.2.8.5 c) How could a system that relates to this deliverable assist diverse users in diverse contexts to accomplish their tasks in a manner that is satisfactory to each of them?		
6.2.8.5 d) How could a system that relates to this deliverable avoid limiting the usability of the system for some users?		
6.2.9.5 a) How could a system that relates to this deliverable assist in minimizing the adverse consequences of errors?		
6.2.9.5 b) How could a system that relates to this deliverable assist in preventing errors?		

Table C.1 (continued)

Question	Answer	Clause(s)/subclause(s) of deliverable
6.2.9.5 c) How could a system that relates to this deliverable assist in minimizing errors?		
6.2.9.5 d) How could this deliverable assist the resulting system in enabling users to recover from errors?		
6.2.10.5 a) How could a system that relates to this deliverable ensure that diverse users can interact with the system in an identical or equivalent manner?		
6.2.10.5 b) Are there elements of the system that some users might not be able to interact with in an identical or equivalent manner?		
6.2.10.5 c) How could systems that relate to this deliverable segregate, stigmatize or discriminate against some users?		
6.2.10.5 d) Will requirements and recommendations in this deliverable promote social integration by treating all groups with equal or equivalent access?		
6.2.11.5 a) How could this deliverable ensure that diverse users can utilize their own assistive products or assistive technology (when needed) with any system that relates to it?		
6.2.11.5 b) How could this deliverable avoid limiting the ability of users to utilize their own assistive products or assistive technology (when needed) with any system that relates it?		
6.2.11.5 c) How could this deliverable ensure that the systems that relate to it will be compatible with other systems across a range of contexts of use to facilitate accessibility by diverse users?		

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GUIDE 71

**Guidelines for standards
developers to address the needs
of older persons and persons
with disabilities**

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Foreword

ISO (the International Organization for Standardization) and IEC (the International Electrotechnical Commission) form the specialized system for worldwide standardization. National bodies that are members of ISO or IEC participate in the development of International Standards through technical committees established by the respective organization to deal with particular fields of technical activity. ISO and IEC technical committees collaborate in fields of mutual interest. Other international organizations, governmental and non-governmental, in liaison with ISO and IEC, also take part in the work.

International Standards are drafted in accordance with the rules given in the ISO/IEC Directives, Part 2.

Draft Guides adopted by the responsible Committee or Group are circulated to national bodies for voting. Publication as a Guide requires approval by at least 75 % of the national bodies casting a vote.

Attention is drawn to the possibility that some of the elements of this Guide may be the subject of patent rights. ISO and IEC shall not be held responsible for identifying any or all such patent rights.

ISO/IEC Guide 71 was prepared by an ad hoc TAG (Technical Advisory Group) based on the preliminary work undertaken by a COPOLCO (Committee on Consumer Policy) Working Group, at the request of the ISO/TMB Secretariat.

0 Introduction

0.1 It is an important goal for the whole of society that all people have access to products, services, workplaces and environments. The issue of accessibility to and usability of products and services has become more critical with the increasing percentage of older persons in the world's population. While not all older persons have disabilities, the prevalence of disability or limitations is highest among this demographic group.

0.2 The needs and abilities of people change as they advance from childhood to old age and the abilities of individuals in any particular age group vary substantially. It is important to recognize that functional and cognitive limitations vary from comparatively minor, such as mild hearing loss or use of spectacles only to read, to blindness, deafness or the inability to move part or all of one's body. It should be noted that although some limitations may be minor in nature, in combination, as is the case in ageing, these can pose a significant problem.

0.3 For many years, standards bodies at the national and international level have addressed the needs of persons with disabilities in the development of specific standards in the area of assistive technology and accessible building design. However, the needs of older persons and persons with disabilities are not being adequately addressed when other relevant standards for everyday products and services are written or revised. Standards bodies are starting to address ageing and disability issues and will, increasingly, develop and implement policies and programmes in their products and services to include the needs of older persons and persons with disabilities. It is important to ensure the representation of interests of older persons and persons with disabilities in the development of these solutions.

0.4 This Guide is intended to be part of the overall framework that standards bodies can use in their efforts to support the need for more accessible products and services. The ISO/IEC Policy Statement 2000 — *Addressing the Needs of Older Persons and People with Disabilities in Standardization Work* sets out the principles for ensuring that the needs of older persons and persons with disabilities¹⁾ are incorporated in the standards-making process, providing justification on humanitarian and economic grounds. This Guide supplements the ISO/IEC Policy Statement by identifying problem areas which need to be considered when drafting standards, recognizing the constraint that standards should normally not be design-restrictive. It is intended for those involved in the preparation and revision of International Standards but also contains information which may be useful for others such as manufacturers, designers, service providers and educators.

0.5 Of necessity, guidance provided in this Guide is general. Usability issues for people with impairments are identified without specific solutions. It is recognized that additional sector-related guides need to be developed for specific product or service sectors.

1) Developments in the field of accessibility have resulted in the creation and use of a wide variety of terms and definitions, related to older persons and disability, which differ throughout the world. For example, some people prefer to use the term "people with disabilities" and others prefer "disabled people". Overall, terms have evolved to become more precise and descriptive, rather than negative or stigmatizing. As no universal practice exists, the terms used in this Guide reflect the language generally used by international agencies such as the United Nations Organization and the World Health Organization.

Guidelines for standards developers to address the needs of older persons and persons with disabilities

1 Scope

1.1 This Guide provides guidance to writers of relevant International Standards on how to take into account the needs of older persons and persons with disabilities. Whilst recognizing that some people with very extensive and complex disabilities may have requirements beyond the level addressed in this Guide, a very large number of people have minor impairments which can be easily addressed by relatively small changes of approach in standards, thereby increasing the market for the product or service.

This Guide aims

- a) to inform, increase understanding and raise awareness about how human abilities impact on the usability of products, services and environments,
- b) to outline the relationship between the requirements in standards and the accessibility and usability of products and services, and
- c) to raise awareness about the benefits of adopting accessible design principles in terms of a wider market.

1.2 This Guide applies to products, services and environments encountered in all aspects of daily life and intended for the consumer market and the workplace. For the purposes of this document, the term 'products and services' is used to reflect all these purposes.

1.3 This Guide

- a) describes a process by which the needs of older persons and persons with disabilities may be considered in the development of standards,
- b) provides tables to enable standards developers to relate the relevant clauses of a standard to the factors which should be considered to ensure that all abilities are addressed,
- c) offers descriptions of body functions or human abilities and the practical implications of impairment,
- d) offers a list of sources that standards developers can use to investigate more detailed and specific guidance materials.

1.4 This Guide provides general guidance. Consideration should be given to the development of additional guides for specific product or service sectors.

1.5 While it is recognized that accessibility and usability are important for both products and services, international work on services standards is at the preliminary stage. At present, this Guide contains considerably more guidance on products than on services.

2 References

ISO/IEC Guide 37:1995, *Instructions for use of products of consumer interest*

ISO/IEC Guide 50:—²⁾, *Safety aspects — Guidelines for child safety*

ISO/IEC Guide 51:1999, *Safety aspects — Guidelines for their inclusion in standards*

ISO/IEC Policy Statement, 2000, *Addressing the needs of older persons and people with disabilities in standardization work*

World Health Organization, *International Classification of Functioning and Disability*, ICDH-2 Beta-2

3 Terms and definitions

For the purposes of this Guide, the following terms and definitions apply.

NOTE This clause is designed to provide clarification of some of the terms used in the fields of ergonomics, accessibility and standardization. It does not provide descriptions of body functions and impairments. This information is provided in clause 9. (See also Introduction, footnote 1, page v.)

3.1 ergonomics human factors

that branch of science and technology that includes what is known and theorized about human behavioural and biological characteristics that can be validly applied to the specification, design, evaluation, operation and maintenance of products and systems, to enhance safety, and effective and satisfying use by individuals, groups and organizations

3.2 accessible design

design focussed on principles of extending standard design to people with some type of performance limitation to maximize the number of potential customers who can readily use a product, building or service which may be achieved by

- designing products, services and environments that are readily usable by most users without any modification,
- by making products or services adaptable to different users (adapting user interfaces), and
- by having standardized interfaces to be compatible with special products for persons with disabilities.

NOTE 1 Terms such as design for all, barrier-free design, inclusive design and transgenerational design are used similarly but in different contexts.

NOTE 2 Accessible design is a subset of universal design where products and environments are usable by all people, to the greatest extent possible, without the need for adaptation or specialized design.

3.3 assistive technology assistive device

piece of equipment, product system, hardware, software or service that is used to increase, maintain or improve functional capabilities of individuals with disabilities

NOTE This can be acquired commercially off-the-shelf, modified or customized. The term includes technical aids for persons with disabilities. Assistive devices do not eliminate an impairment but may lessen the difficulty an individual has in carrying out a task or activity in specific environments.

2) To be published. (Revision of ISO/IEC Guide 50:1987.)

3.4**impairment**

problem in body function or structure such as a significant deviation or loss which can be temporary due, for example, to injury, or permanent, slight or severe and can fluctuate over time, in particular, deterioration due to ageing

NOTE 1 Body function can be a physiological or psychological function of a body system; body structure refers to an anatomic part of the body such as organs, limbs and their components (as defined in ICIDH-2 of July 1999). See also footnote 1, page v.

NOTE 2 This definition differs from that in ISO 9999:2001 and, slightly, from ICIDH-2/ICF: May 2001, WHO.

3.5**activity limitation**

difficulty an individual may have in executing tasks or actions

3.6**user**

person who interacts with the product, service or environment

NOTE Adapted from ISO 9241-11:1998.

3.7**usability**

extent to which a product can be used by specified users to achieve specified goals with effectiveness, efficiency and satisfaction in a specified context of use

[ISO 9241-11:1998]

3.8**alternative format**

different presentation which may make products and services accessible by the use of another mobility or sensory ability

3.9**working dog**

guide dog, hearing and seizure, service (usually assisting with mobility needs) and social therapy dog, or any combination of these

4 General considerations

4.1 Aside from the humanitarian reasons for making products, services and environments more usable by older persons and persons with disabilities, there are a number of economic benefits. The most obvious is the increase in potential customers. Features that make products and services usable for persons with disabilities can also make them convenient and easy to use for everyone else. This is particularly helpful when people have temporary difficulties, such as lost glasses, a broken leg or a journey with a pram/stroller or bulky luggage.

4.2 Addressing needs earlier rather than later in the design stage enables producers, at little or no extra cost, to design and produce products, services and environments that more people can use. Standardization greatly influences the design of products and services that are of interest to the consumer and therefore can play an important role in this field.

4.3 Technical Committees are encouraged to address the needs of older persons and persons with disabilities in the drafting of International Standards (see ISO/IEC Policy Statement, *Addressing the Needs of Older Persons and People with Disabilities in Standardization Work*). This Guide aims to provide standards developers and related others with a systematic approach to addressing ageing and disability issues in the writing and revision of International Standards and to assisting Technical Committees in evaluating how they are addressing these needs in their Work Programmes.

4.4 It is recognized that standards committees include risk assessments as part of their analysis (as specified in Guides 50 and 51). The present Guide will assist committees in the risk assessment process by identifying potential hazards which can present greater risks to those with impairments.

4.5 Assistive technology, in the form of equipment, software or services, is available to meet some of the needs of older persons and persons with disabilities. It is important that this is compatible with mainstream products. Consideration needs to be given to everyday products and their potential to allow the fitting of more technical assistive devices specifically for older persons and persons with disabilities. Baths and bath seats should be compatible; equally, hearing aids and telephones should be compatible.

4.6 The provision of personal assistance, including the assistance of working dogs, while sometimes indispensable to a person with a disability, should never be relied upon to replace accessible design principles. Where accessible design cannot fully respond to the needs of older persons and persons with disabilities, in particular in the field of services, the need for personal assistance may still be required.

4.7 In product design there is potential for conflict between safety and usability. For example child-resistant closures used on medicines to prevent access to children may also make closures more difficult to open for older persons who no longer see as well, or have reduced strength or dexterity. While safety is the primary objective, Technical Committees should try to develop solutions which also address ergonomic factors. Guidance on addressing the needs of children is given in ISO/IEC Guide 50.

5 Using Guide 71

5.1 Clause 6 of this Guide suggests a process standards developers may use to address the needs of older persons and persons with disabilities as part of their standards development process.

5.2 Clause 7 provides tables to help standards developers to identify factors that will affect the use of a product, service or environment and to consider their significance for persons with different abilities.

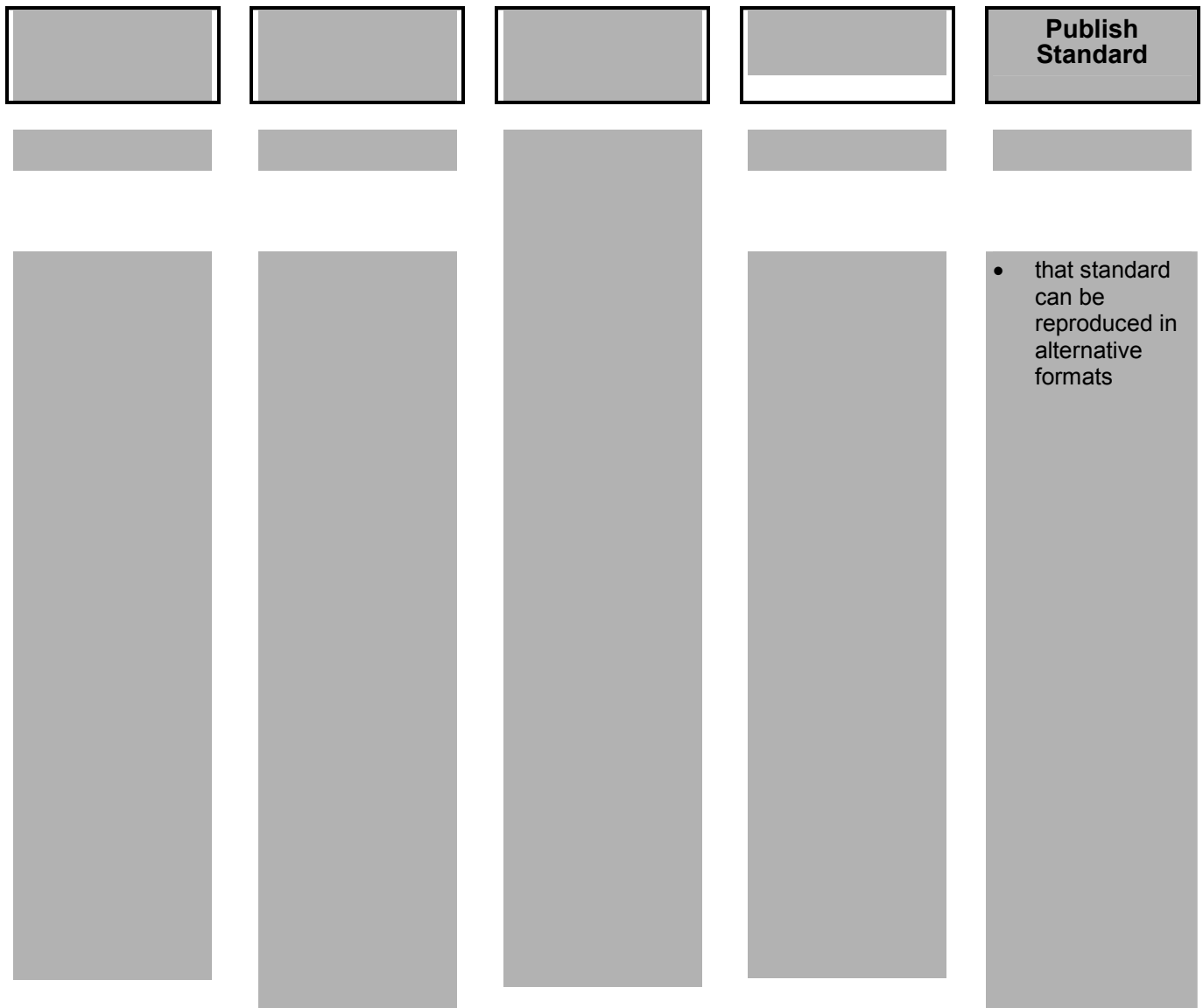
5.3 Clause 8 provides more explanation of the factors to consider, using key words set out in the tables.

5.4 Clause 9 describes the different human abilities, sensory, physical and cognitive, referred to in the tables, and provides some description of the causes and consequences of impairment. It also includes a section on allergies which can impose limitations on an individual's activities and which are in some cases potentially life-threatening. It is desirable that all standards writers read all of clause 9, to increase awareness of the issues.

5.5 A Bibliography is also provided which offers a list of sources that standards developers can use to investigate more detailed and specific guidance materials.

6 Developing standards — Issues to consider during the standards development process

Committees may find the following process helpful in ensuring that the needs of older persons and persons with disabilities are included, when drafting a new standard or at each revision of an existing one. The process reads from left to right with guidance on achieving each objective in the columns below.



7 Tables of factors to consider to ensure standards provide for accessible design

7.1 Introduction

Tables 1 to 7 provide a tool intended to help standards developers to identify factors that will affect the use of a product, service or environment by people with different levels of ability. It should be noted that individual users may have impairment in more than one ability and all abilities should always be considered.

7.2 Purpose of Tables

Each Table identifies typical clauses or sections of International Standards as follows:

Table 1 Information, labelling, instructions and warnings

Table 2 Packaging: opening, closing, use and disposal

Table 3 Materials

Table 4 Installation

Table 5 User interface, handling, controls and feedback

Table 6 Maintenance, storage and disposal

Table 7 Built environments (buildings)

7.3 Using the Tables

7.3.1 To use the Tables, it is suggested that standards developers first consider which Tables are relevant to their draft International Standard, that is, what sorts of clauses they expect to include in the standard. For example, a standard related to an electrical product might have clauses covering information, packaging, materials, installation, user interface and maintenance and thus Tables 1 to 6 would be relevant. A standard on food packaging might have clauses covering information, packaging, materials, user interface and maintenance, and so Tables 1 to 3, 5 and 6 should be consulted. A standard on building access might include clauses on information, materials, installation, user interface and the built environment in general, suggesting Tables 1, 3, 4, 5 and 7 should be looked at.

7.3.2 Within each Table, the first column identifies, through key words, the factors which should be considered. The key words are numbered as they are described in clause 8 of this Guide.

EXAMPLE For an electrical product, when drafting clauses on information and warnings, consideration should be given to alternative formats, the location and layout of information, the light conditions under which it should be viewed, etc. The key words “Alternative format” are explained in more detail in 8.2, “Location and layout” are covered in 8.3, and so on.

7.3.3 The remaining columns of each Table show, by shading, where factors are significant for those with impairment in the various human abilities. Even though the factors which tend to be especially significant are shaded here, all the factors could be important and should be considered for each different case. So, again in Table 1, the use of alternative formats for information and warnings can be seen to be important for people with sensory impairment (in seeing, hearing, touch, taste or smell), and those who have impairment in dexterity or in language and literacy. The relevant alternative format may be different for different abilities but clearly the more alternative formats used, the greater the number of people who will be suited. Each of the human abilities is numbered as it appears in clause 9 so more information about, for example, an ability to see and the potential risks arising from impairment can be found in 9.2.1.

7.3.4 In conclusion, standards developers should use the Tables selectively — in terms of the Tables and factors that are relevant to their International Standard. However, once the relevant Tables and factors have been identified, all the consequent row of Human abilities should be considered. This is because all factors relevant to a product, service or environment may be significant to people of any ability.

Table 1 — Factors to consider in clauses on information

The best designed products or services avoid the need for any explanatory information, signalling the way they should be used by form and appearance. Additionally, some users may not pay attention to any information provided. Nevertheless where information is supplied, in particular safety warnings, it needs to be available to all users of a product or service. ISO/IEC Guide 37:1995 provides general guidance; the following are ways of ensuring maximum accessibility to older persons and persons with disabilities.

Factors to consider in standards clauses on information (labelling, instructions and warnings)	Human abilities												
	9.2 Sensory					9.3 Physical					9.4 Cognitive		9.5 Allergy
	Seeing 9.2.1	Hearing 9.2.2	Touch 9.2.3	Taste/smell 9.2.4	Balance 9.2.5	Dexterity 9.3.1	Manipulation 9.3.2	Movement 9.3.3	Strength 9.3.4	Voice 9.3.5	Intellect/memory 9.4.2/3	Language/literacy 9.4.4	Contact/food/respiratory
8.2 Alternative format													
8.3 Location/layout													
8.4 Lighting/glare													
8.5 Colour/contrast													
8.6 Size/style of font													
8.7 Clear language													
8.8 Symbols/drawings													
8.9 Loudness/pitch													
8.10 Slow pace													
8.11 Distinctive form													
8.12 Ease of handling													
8.13 Expiration date marking													
8.14 Contents labelling													
8.15 Surface temperature													
8.16 Accessible routes													

Table 2 — Factors to consider in clauses on packaging

Aspects to consider include the labelling of packaging which overlaps with information given in Tables 1 (instructions), 3 (materials) and the process of opening and disposal of packaging.

Factors to consider in standards clauses on packaging (opening, closing, use and disposal)	Human abilities													
	9.2 Sensory					9.3 Physical					9.4 Cognitive		9.5 Allergy	
	Seeing 9.2.1	Hearing 9.2.2	Touch 9.2.3	Taste/ smell 9.2.4	Balance 9.2.5	Dexterity 9.3.1	Manipulation 9.3.2	Movement 9.3.3	Strength 9.3.4	Voice 9.3.5	Intellect/ memory 9.4.2/3	Language/ literacy 9.4.4	Contact/ food/ respiratory	
8.2 Alternative format														
8.4 Lighting/glare														
8.5 Colour/contrast														
8.6 Size/style of font														
8.8 Symbols/drawings														
8.11 Distinctive form														
8.12 Ease of handling														
8.17 Logical process														
8.18 Surface finish														
8.19 Non-allergenic/toxic														

Table 3 — Factors to consider in clauses on materials

The nature of materials has an impact on user interactions.

Factors to consider in standards clauses on materials	Human abilities													
	9.2 Sensory						9.3 Physical					9.4 Cognitive		9.5 Allergy
	Seeing 9.2.1	Hearing 9.2.2	Touch 9.2.3	Taste/smell 9.2.4	Balance 9.2.5	Dexterity 9.3.1	Manipulation 9.3.2	Movement 9.3.3	Strength 9.3.4	Voice 9.3.5	Intellect/memory 9.4.2/3	Language/literacy 9.4.4	Contact/food/respiratory	
8.4.4 Glare														
8.5 Colour/contrast														
8.11 Distinctive form														
8.12 Ease of handling														
8.14 Contents labelling														
8.15 Surface temperature														
8.18 Surface finish														
8.19 Non-allergenic/toxic														
8.20 Acoustics														

Table 4 — Factors to consider in clauses on Installation

In many cases, installation will or should be carried out by qualified persons who may be less likely to have certain impairments, such as in strength. However attention should still be given to catering for different abilities wherever possible.

Factors to consider in standards clauses on installation	Human abilities													
	9.2 Sensory						9.3 Physical					9.4 Cognitive		9.5 Allergy
	Seeing 9.2.1	Hearing 9.2.2	Touch 9.2.3	Taste/ smell 9.2.4	Balance 9.2.5	Dexterity 9.3.1	Manipulation 9.3.2	Movement 9.3.3	Strength 9.3.4	Voice 9.3.5	Intellect/ memory 9.4.2/3	Language/ literacy 9.4.4	Contact/ food/ respiratory	
8.4 Lighting/glare														
8.8 Symbols/drawings														
8.11 Distinctive form														
8.12 Ease of handling														
8.17 Logical process														
8.18 Surface finish														
8.19 Non-allergenic/toxic														
8.21 Fail-safe														

Table 5 — Factors to consider in clauses on the user interface

This is the area in which attention to factors can have most impact on usability by a wide range of users.

Factors to consider in standards clauses on user interface (handling, controls and feedback)	Human abilities												
	9.2 Sensory					9.3 Physical					9.4 Cognitive		9.5 Allergy
	Seeing 9.2.1	Hearing 9.2.2	Touch 9.2.3	Taste/ smell 9.2.4	Balance 9.2.5	Dexterity 9.3.1	Manipulation 9.3.2	Movement 9.3.3	Strength 9.3.4	Voice 9.3.5	Intellect/ memory 9.4.2/3	Language/ literacy 9.4.4	Contact/ food/ respiratory
8.2 Alternative format													
8.3 Location/layout													
8.4 Lighting/glare													
8.5 Colour/contrast													
8.6 Size/style of font													
8.7 Clear language													
8.8 Symbols/drawings													
8.9 Loudness/pitch													
8.10 Slow pace													
8.11 Distinctive form													
8.12 Ease of handling													
8.15 Surface temperature													
8.17 Logical process													
8.18 Surface finish													
8.19 Non-allergenic/toxic													
8.20 Acoustics													
8.21 Fail-safe													

Table 6 — Factors to consider in clauses on maintenance, storage and disposal

This may be undertaken by someone other than the user; see also Table 4.

Factors to consider in standards clauses on maintenance, storage and disposal	Human abilities													
	9.2 Sensory						9.3 Physical					9.4 Cognitive		9.5 Allergy
	Seeing 9.2.1	Hearing 9.2.2	Touch 9.2.3	Taste/ smell 9.2.4	Balance 9.2.5	Dexterity 9.3.1	Manipulation 9.3.2	Movement 9.3.3	Strength 9.3.4	Voice 9.3.5	Intellect/ memory 9.4.2/3	Language/ literacy 9.4.4	Contact/ food/ respiratory	
8.2 Alternative format														
8.4 Lighting/glare														
8.8 Symbols/drawings														
8.11 Distinctive form														
8.12 Ease of handling														
8.17 Logical process														
8.19 Non allergenic/toxic														

Table 7 — Factors to consider in clauses relating to the built environment (buildings)

Design of the built environment may need to take into account the additional requirements of assistive technology. For example wider corridors are needed for wheelchairs to pass. Buildings otherwise closed to animals should nevertheless provide access for working dogs. Where design solutions are constrained, providing personal assistance to, for example, visually impaired persons or wheelchair users may facilitate access.

Factors to consider in clauses relating to the built environment (buildings)	Human abilities												
	9.2 Sensory				9.3 Physical				9.4 Cognitive		9.5 Allergy		
	Seeing 9.2.1	Hearing 9.2.2	Touch 9.2.3	Taste/ smell 9.2.4	Balance 9.2.5	Dexterity 9.3.1	Manipulation 9.3.2	Movement 9.3.3	Strength 9.3.4	Voice 9.3.5	Intellect/ memory 9.4.2/3	Language/ literacy 9.4.4	Contact/ food/ respiratory
8.2 Alternative format													
8.3 Location/layout													
8.4 Lighting/glare													
8.5 Colour/contrast													
8.6 Size/style of font													
8.7 Clear language													
8.8 Symbols/drawings													
8.9 Loudness/pitch													
8.10 Slow pace													
8.12 Ease of handling													
8.15 Surface temperature													
8.16 Accessible routes													
8.18 Surface finish													
8.19 Non-allergenic/toxic													
8.20 Acoustics													
8.22 Ventilation													
8.23 Fire resistance													

8 Factors to consider

8.1 General

8.1.1 This clause, to be used in conjunction with Tables 1 to 7 and the fuller descriptions of abilities in clause 9, provides more detail on the features of products, services and environment that assist or hinder older persons and persons with disabilities.

8.1.2 Clauses 8.2 onwards expand on the key words used in the Tables, describing the factors to consider to make products and services accessible. Examples of possible solutions are given but these should be treated as guidance and not specifications. The list of problems and solutions is not exhaustive.

8.1.3 Where they exist, International or national Standards on accessibility should be consulted before writing new or revised standards that meet any of the table positions identified as a result of 7.3.3.

8.2 Alternative format

8.2.1 General considerations

An alternative format (defined in 3.8) describes a different presentation or representation intended to make products and services accessible through a different modality or sensory ability. By providing all input and all output, i.e. information and functions, in at least one alternative format, for instance visual and tactile, more people, including some with language/literacy problems, may be helped. In terms of function for people with dexterity and strength impairment, alternative packaging solutions may need to be envisaged.

8.2.2 Alternatives to visual information

The type and texture of surface finishes can be important in providing tactile feedback which can reinforce instructions and warnings for those with visual impairment. Where the principal form of instruction on a product or in a building is written, alternatives would be voice (instructions 'spoken' by a product or service), sound (feedback from clicks, bells and buzzers) or touch (tactile marking or grip).

Wherever feasible, visual information which is presented on electronic products should be available from the product in audio or other sensory stimuli for those with a visual impairment including those who cannot read braille, as well as for those who have difficulty with reading or are unable to read. Printed visual information should be available in alternative formats (electronic audio, large raised letters or braille, etc.) which are readable by individuals without vision and in large print for those with low vision.

8.2.3 Alternatives to auditory information

Wherever feasible, sound signals should be supported by visual or other sensory stimuli for those with a hearing impairment (e.g. communication in writing, graphical symbols, vibration or sign language). In particular, audible warnings, such as fire alarms, should also activate, for example, visual stimuli, such as flashing lights which are well sited and clearly indicated.

8.2.4 Alternatives to voice input

Where voice input is used to activate a process, for example building entry security systems, alternatives such as keypads or the use of video monitoring should be considered.

8.2.5 Biological identification and operation

Where biometric forms of identification are intended, an alternative form of identification or activation should also be provided. For example, if systems require a retinal scan and a person does not have a retina, or the system requires a fingerprint and the person does not have hands or uses a prosthesis, such people are unable to operate the devices unless some alternative form of identification is substituted.

8.2.6 Prevention of seizures

Flicker rates, or flashing or blinking text, objects or video screens should avoid frequencies that are most likely to trigger visually induced seizures.

8.3 Location and layout of information and controls and positioning of handles

8.3.1 Location

The position of information and controls on a product, or in a building, or even the point at which information is available for a service (e.g. warnings about the terms on which dry-cleaners accept clothes for processing) are important. They need to be prominent for someone with a visual impairment or language/literacy disability, visible from the angle of view of someone standing and seated in a wheelchair, and easily accessed by seated or standing users without bending and stretching. This may mean that the positioning needs to be flexible or adjustable or duplicated. Information or controls should be located in a position where they will not be obstructed, for example when a product is held by either or both hands, or held in a different way by someone with manipulation or strength impairment.

8.3.2 Buildings

The design of buildings can incorporate simple measures that enable people to feel more confident in the physical environment, such as well placed, sturdy handrails. Controls and door handles within easy reach facilitate use by those with impairment in dexterity, manipulation, movement or strength.

8.3.3 Layout

The layout of information and controls will also determine how easy they are to read by someone with a visual or cognitive impairment. Factors to consider include logical grouping of information and controls, line length of text, relevance of information and relationship of controls to actions to be undertaken.

8.4 Lighting levels and glare

8.4.1 Provision of lighting

Appropriate lighting ensure that those with a visual impairment are better able to see instructions and controls. This should also be considered for those with a hearing impairment to assist with lip reading or sign language communication.

8.4.2 Consideration of ambient lighting

The likely lighting levels in typical use should be considered, for example television controls may be operated in a darkened room, installation of a product may be in a dark space.

8.4.3 Buildings

Adjustability of lighting levels in a building is desirable to suit different needs but sudden changes in lighting levels should be avoided.

8.4.4 Avoidance of glare

Too high light levels and strong directional light can result in deep shadows or glare. Reflecting surfaces on information panels and glossy paper in instruction books or on packaging containing warnings should be avoided, to reduce the possibility of glare.

8.5 Colour and contrast

8.5.1 Choice of colour

This is important for ease of recognition and ease of seeing. Some colour combinations are also more effective. For example some colours, such as red/green, are not distinguishable by a significant minority of the population (those with colour blindness).

8.5.2 Colour combinations

The best colour combinations depend on the purpose of information, whether it is for guidance or a hazard warning, and the lighting conditions under which it is most likely to be viewed. For example, black on yellow or light grey are general purpose combinations which provide strong definition without too much glare, pastel shades on pastel backgrounds or red lettering or symbols on light grey are difficult to see and should normally be avoided.

8.5.3 Colour coding of information

All information conveyed with colour should also be available without the perception of colour. Colour coding should not be used as the only means for conveying information, indicating a response or distinguishing a visual element.

8.6 Size and style of font and symbols in information, warnings and labelling of controls

The required size of font for information, warnings and labelling of controls, relates to the probable viewing distance, level of illumination and colour contrast of the text against its background. The choice of font, whether with or without serif, in upright form or *italics* and light, medium or **bold** appearance also has a significant impact on legibility. Standards developers should also be aware that text written in CAPITAL letters is more difficult to read. This is significant for those with a visual impairment. Consideration should be given to specifying size and style of font and symbols for warnings.

8.7 Clear language in written or spoken information

8.7.1 Information available as text

Information should be made available in text format wherever possible, in addition to other forms, to facilitate recognition and translation into speech and other languages for those who have trouble seeing, recognizing or deciphering non-text information presentations.

8.7.2 Complexity of information

Instructions or operations which are too complex will often deter older persons and persons with limited intellect from using a product or device. Simple written or spoken messages are also clearer to understand by someone with a visual or hearing impairment.

8.7.3 Printed instructions

These should use short sentences of simple, straightforward and non-technical language and may include simple illustrations.

8.7.4 Spoken information

Rules for spoken information are similar to those for printed information. The context should always be given to ensure that information is meaningful and instructions should be provided in a logical order. Key points should be reinforced by repetition. People with hearing loss are at an increased risk or disadvantage if spoken announcements are not loud enough, or if the pitch is too high or too low.

8.7.5 Multiple languages

Where instructions are to be provided in more than one language, written information in each language should be presented in separate sections of a manual rather than interleaved on a page; spoken information should be preceded by a clear statement in the language to be used.

8.8 Graphical symbols and illustrations

The use of meaningful graphical symbols or illustrations, in addition to text, should be considered in instructions and also on a product, for ease of assembly or use. For example the same symbol should be used on the respective ends of parts to be joined, when assembling a product, or in the labels on controls.

8.9 Loudness and pitch of non-spoken communication

People with a hearing loss are at increased risk or are disadvantaged if warnings are not loud enough, or if the pitch is too high or too low. Where possible, volume should be adjustable over a wide range. Information should also be presented in multiple frequencies where possible (e.g. an alarm signal could consist of a strong component at multiple frequencies). Sudden changes in volume should also be avoided.

8.10 Slow pace of information presentation

Announcements spoken at a slow measured pace allow listeners to pick out the message; pauses between instructions give time to understand and act on the information. If a message is delivered too rapidly, it is difficult to assimilate by someone with a hearing or vision impairment, or learning disability. Consideration should be given to the length of time information remains in view when presented on moving displays, or when information is temporarily displayed and then removed.

8.11 Distinctive form of product, control or packaging

8.11.1 Identification by form

A distinctive form can make it easier for those with visual impairment and reduced touch sensitivity to identify a product, to interpret the parts of a product to be joined during assembly and to distinguish between different controls. A familiar form can also aid those with impaired cognitive ability.

8.11.2 Orientation of product or control

Where possible, the form of the product or control should also indicate the orientation of the product or control, so the top or bottom, front or back, can be easily located by someone with a visual impairment.

8.11.3 Tactile warnings

The use of universally recognized tactile warnings on the container or packaging enables identification of toxic or corrosive materials. Similarly, tactile warnings are normally required in buildings, such as at stair openings, on steps, on platforms and at dangerous storage areas.

8.12 Ease of handling

8.12.1 Size, shape and mass

These characteristics of a product will affect how easy it is to lift, hold and carry. Lifting and carrying is eased if articles are shaped to facilitate easy grasping, with either or both hands. Light, compact articles are generally preferable thus the density of manufacturing materials needs consideration. Provided safety is not compromised wherever possible, products should be capable of operation by only one hand, preferably either hand.

8.12.2 Instruction manuals and location of markings

The size, number of pages and weight of paper used in an instruction manual can affect the ease with which it is held and pages are turned, which will influence the extent it is used.

8.12.3 Controls

8.12.3.1 Handling

The force required to twist, turn, push or pull controls or fastenings is significant for people with various impairments. Operating controls should allow comfortable grip, avoid twisting of the wrist, avoid the need for simultaneous actions and offer minimal resistance. Textured surfaces, to increase friction, assist the application of force. Provision of alternative controls offering greater leverage or power-assistance should be considered. Pre-programmable operation and personal preferred settings can be effective, particularly for people with cognitive impairment.

8.12.3.2 Spacing

Controls should be spaced to avoid interference when another one is being operated.

8.12.3.3 Status

Multisensory feedback should be provided on the status of controls.

8.12.4 Containers and packaging

Containers should allow easy opening and closing by adopting appropriate shapes, sizes and surface finish. Packaging, such as some food wrappings which are difficult to open can result in injuries as users resort to sharp knives or other gadgets to attempt opening. Operating forces should be as low as reasonably attainable, compatible with security of contents.

8.12.5 Duration of actions

Products should not need a long handling time and unnecessary repetition of operations should be avoided.

8.12.6 Timed responses

Whenever possible, users should be able to control any limits on the amount of time available to them to read or respond.

8.12.7 Elements in building and the built environment

Elements and parts of buildings such as windows, doors, bathroom-elements, lifts/elevators, lobbies, intercom systems, etc., should be accessible and easy to handle. This concerns the application of force, positioning, logical structure and having enough space to move around when using assistive devices.

The same applies to the built environment (for example, street furniture, pedestrian crossings, parking meters) and handling in public transport (doors, ticket machines, etc.).

These aspects are particularly valuable for those with impairments in seeing, balance, dexterity, manipulation, movement, strength and cognition. See also 8.3 and 8.16.

8.13 Expiration date marking

In order to reduce the risk of food poisoning, clear expiration date marking of food is important, as is the ability to interpret this. It is of particular value to those with an impairment in taste or smell.

8.14 Contents labelling and warning of allergens

8.14.1 Clear contents labelling is important, as is the ability to interpret this. Warning of potentially hazardous substances, such as chemicals, gases and smoke is of particular value for those with visual impairment or in taste or smell. Clear content labelling of products and packaging is important for individuals who suffer from food or contact allergies. Attention should be drawn to any change in composition of existing products.

8.14.2 Specific labels for “allergy-tested” products and packaging, as well as clear instructions for safe use or operation, are helpful.

8.15 Surface temperature

8.15.1 Surfaces which may be touched inadvertently during normal operation should not get excessively hot or cold. The choice of materials to be used, for example under cold conditions, and the use of appropriate insulating materials needs consideration.

8.15.2 Warnings of where temperatures may be excessively high or low for functional reasons are of particular benefit to those with limited sensitivity in their touch receptors. The format of the warnings should be accessible to people with visual or cognitive impairment.

8.16 Accessible routes

8.16.1 Changes of level

Accessibility in and around buildings can be improved by avoiding unnecessary changes in level at, for example, doorways and lift thresholds. Even very small changes of level, edges and protrusions can cause tripping. Where level changes cannot be avoided, they should be as low as possible, and clearly marked.

8.16.2 Lifts/elevators and ramps

Where there is a change of level, lifts/elevators and ramps should be provided. The slope of ramps should be appropriate in order to be safe and usable by persons using powered scooters, walking aids and wheelchairs. Lifts/elevators need to be of adequate size.

8.16.3 Stairs

Any stairs and steps should be designed to accommodate older persons and persons with disabilities by providing handrails of an appropriate diameter and height on both sides. Steps should be of a consistent rise and tread to accommodate the length of a human adult foot. Ends of flights of stairs should be marked by appropriate colour contrast.

8.16.4 Flooring

Flooring should be reasonably slip-resistant, firm and stable: see 8.18.3. Floor guidance for visually impaired people should be provided.

8.16.5 Swing, sliding or powered door-closing systems

These can knock people off balance and should incorporate appropriate safety mechanisms. Consider alternative controls such as (hands-free) automatic operation. The timing of any procedure or operation should allow more time for people who move slowly.

8.16.6 Seating

This should be provided at appropriate locations in a facility or environment to enable users to rest.

8.16.7 Coverage

Accessibility should be planned for all areas where people normally work or use the environment; it should be ensured that the accessible routes connect those areas by the shortest possible path. Care should be given to the inclusion of sanitary facilities within the accessible routes.

8.16.8 Route information

Guidance on accessible routes through a building is of particular value to those with a visual, movement or cognitive impairment.

8.16.9 Emergency routes

It is essential that emergency evacuation routes are obvious, intuitive and accessible to wheelchair users and others with a movement or visual impairment.

8.17 Logical process

8.17.1 Operations

These, such as the opening of packaging and assembling, installing or operating a product, should follow simple, straightforward and logical sequences. This assists persons with visual or cognitive impairment.

8.17.2 Feedback

Consideration should be given to the provision of appropriate feedback when each action in a sequence of actions is successfully completed.

8.17.3 Repeated actions

Within a task, repetition can be helpful because it makes learning easier. (This may conflict with the needs of someone with a strength impairment, see 8.12.5.) Individuals with cognitive impairments can use most well designed controls and displays, but they take longer to learn to use them and need error protection.

8.18 Surface finish

8.18.1 Slip-resistance and texture

The surface finish of a product/material is important for people with limited dexterity. A non-slippery surface aids gripping and manipulating. The use of distinct textures can also help someone with a visual impairment to distinguish different parts of a product or to locate controls.

8.18.2 Sharp points

Surfaces should be free from sharp points and edges which are a potential hazard to anyone but are particularly so for someone with a visual or touch impairment.

8.18.3 Flooring

Floors should be slip-resistant to facilitate movement by those with a visual impairment, impaired balance and general difficulty in movement. Cushioned carpeting is not recommended as a springy surface does not offer a firm, stable foothold and deep-pile carpet causes resistance for those with a shuffling gait, risking a stumble. This type of carpet can also be a hazard for people using walking aids. A change of surface material can cause a danger and should be indicated.

8.19 Non-allergenic/toxic materials

Avoidance of toxic and allergenic materials is particularly important for people with impaired tasting or smelling ability and those with contact, food or respiratory allergies. Examples of everyday objects that contain nickel or chromium, which can create an allergic response, include doorknobs and window frames.

People with visual impairment who rely on touch or tactile feel may be at risk if they come into contact with allergenic materials.

8.20 Acoustics

8.20.1 Acoustical design

Attention to accoustical design will ensure that the environment is suitable for good verbal communication with low background noise, low reverberation and high quality amplification as appropriate. People with visual or cognitive impairment rely to a greater extent on sound clues.

8.20.2 Amplification and adjustment

Building these into audio equipment widens the range of users who may be accommodated.

8.20.3 Communication systems

Even with a good accoustic environment, hearing-impaired people have difficulty in hearing at a distance from the source of the sound. The availability of communication systems such as induction loops, infrared and radio systems means that they should be included.

8.21 Fail-safe

Product or system design should ensure that even when incorrectly assembled or installed or there is mistaken use of controls, the product or system will fail in a safe manner without hazard to the user.

8.22 Ventilation

Ventilation systems should not cause or enhance respiratory allergies or irritation.

8.23 Fire safety of materials

Consideration should be given to the fire-resistance qualities in products and buildings which are used by people with disabilities. Materials susceptible to ignition by a small source such as a cigarette, match or other small flame present a potential hazard if they continue to burn, producing toxic smoke or result in rapid growth of fire.

People who cannot move quickly or who do not see well are in particular at greater risk.

9 Detail about human abilities and the consequences of impairment

9.1 General

9.1.1 The needs and abilities of people change as they advance from childhood to old age and the abilities of individuals in any particular age group vary substantially. It is important to recognize that functional and cognitive limitations vary from comparatively minor impairment to more extreme forms.

9.1.2 This clause, to be used in conjunction with clause 8, provides the tools for identifying and addressing the needs of older persons and persons with disabilities in standardization work.

9.1.3 A brief definition and description of each ability used in the Tables have been given along with information on the effects of ageing and the practical implications of impairment. Examples have been given, where appropriate, of hazards from which older persons and persons with disabilities are more at risk because of their functional limitations.

9.2 Sensory abilities

9.2.1 Seeing

9.2.1.1 Description

Seeing relates to sensing the presence of light and sensing the form, size, shape and colour of visual stimuli.

9.2.1.2 Effects of ageing

The incidence and severity of visual impairment increase with age. Changes in the physical structure of the eye affect several aspects of visual functions, including:

- loss of visual acuity (the image appears indistinct),
- loss of near and/or distance vision (inability to accommodate changes of focus),
- reduced field of vision (inability to see things to the side, top or bottom of where looking),
- perception of colour, including age-related yellow vision (inability to distinguish colours),
- depth perception (inability to judge distances),
- speed of adaptation to changing light levels (temporary inability to see whilst eye adjusts to different lighting levels, for example on entering a building), and
- sensitivity to light; generally, older persons need more light to read than they did at 20 years of age.

9.2.1.3 Design considerations

People with no useful vision depend mainly on tactile and acoustic input. The majority of people with difficulties seeing have some vision, and therefore use visual stimuli such as size, luminance and colour contrast. Typically, the simpler an image and the clearer its definition, the easier it is to see and read.

9.2.1.4 Risks and hazards

People with a visual impairment are at an increased risk from, for example:

- sharp points and edges on products being handled, particularly if the user relies on touch to identify features,
- physically unstable items that might fall out of reach,
- changes in surface level, obstacles or protrusions which may result in slip, trip, collision and fall hazards, or cause injuries,
- open fire and flames,
- hot surfaces that might be touched inadvertently,
- corrosive substances unless they are labelled with a universally recognized tactile warning,

- evacuation procedures which rely solely on visual indicators,
- visual warnings which rely solely on colour or on colours with poor contrast between text and background.

9.2.2 Hearing

9.2.2.1 Description

Hearing functions relate to sensing the presence of sounds and discriminating the location, pitch, loudness, quality and comprehension of sounds. Hearing loss can range from a mild reduction in hearing to profound deafness.

9.2.2.2 Effects of ageing

The majority of people with hearing loss are older people. As people age, they tend to lose the ability to detect higher frequency sounds. Many older people use a hearing aid.

9.2.2.3 Design considerations

With or without a hearing aid, the level, frequency and clarity of any sound is important. Prelingually deaf people may have difficulty understanding written and spoken language.

9.2.2.4 Risks and hazards

People with a hearing loss are at an increased risk if spoken announcements and warnings are not loud or intelligible enough for them, or if frequencies are too high to detect.

9.2.3 Touch

9.2.3.1 Description

Touch functions relate to sensing surfaces and their texture or quality. There will be reliance on other stimuli, particularly visual and auditory.

9.2.3.2 Effects of ageing

As people age, they lose sensitivity and can no longer rely on touch and pain to give early feedback on temperature or injury.

9.2.3.3 Design considerations

People with artificial hands or who lack touch sensation may not be able to use tactile screens or similar types of control devices.

9.2.3.4 Risks and hazards

People with hypersensitive touch will be hurt by stimuli which might cause only discomfort to other people — for example, by sharp points and edges, and very hot/cold surfaces. These stimuli are also more likely to harm people with limited sensitivity, who might remain in contact with them for too long.

9.2.4 Taste/smell

9.2.4.1 Description

Taste and smell are separate senses but have been grouped together in the Tables because of their similar practical implications. Taste relates to sensing four basic qualities, through receptors on the tongue: bitter, sweet,

sour and salty. Smell relates to the use of receptors in the nose to sense odours and smells. The two senses of taste and smell are used together to identify the range of flavours which can normally be distinguished.

9.2.4.2 Effects of ageing

The ability to detect odours decreases as people get older.

9.2.4.3 Risks and hazards

Impairment of the sense of taste or smell reduces the body's defence against toxic materials. For example, people may not be able to detect when food has deteriorated or be alerted to hazards such as smoke.

9.2.5 Balance

9.2.5.1 Description

The ability to maintain balance and avoid falling is dependent on a complex system, which involves the brain coordinating visual stimuli, feedback from the balance mechanism in the ear and movement of the limbs. Continuous control of balance is required during virtually all types of activities.

9.2.5.2 Effects of ageing

The incidence of balance impairments, and thus falls, increases with age. Age-related attention deficits and visual impairment can reduce the ability to avoid hazards and to react to loss of balance.

9.2.5.3 Risks and hazards

Slips, trips or other unexpected disturbances to balance require rapid responses in joint rotations and limb movements and can place extraordinary demands on the balance control system. Even very small edges and protrusions can cause tripping. Older persons are more vulnerable to injury from falls as bones break more easily and consequent complications may be life-threatening. Balance impairment can lead to an increased fear of falling. People in wheelchairs, powered scooters and walkers may have balance limitations, and injuries can severely affect their independence.

9.3 Physical abilities

9.3.1 Dexterity

9.3.1.1 Description

Dexterity relates to activities of hand and arm use, particularly coordinated actions of handling objects, picking them up, manipulating and releasing them, using one hand, fingers and more specifically, thumbs.

9.3.1.2 Design considerations

Dexterity impairment includes an inability to bring thumbs and fingers close together or an inability to separate them very far. Complex operations, such as push and turn, which require sustained pressure and twisting of the wrist, may be painful or impossible. These have implications for the size, shape and location of controls. People with involuntary movement have problems with tasks that require precision, such as opening packaging and dealing with fastenings.

9.3.1.3 Risks and hazards

People with limited dexterity may endanger themselves, for example by inadvertently activating controls, or failing to withdraw a hand quickly from a hazard, such as a flame.

9.3.2 Manipulation

9.3.2.1 Description

Manipulation relates to activities of carrying, moving and manipulating objects. It includes actions using legs, feet, arms and hands — reaching, lifting, putting down, pulling, pushing, kicking, grasping, releasing, turning, throwing and catching.

9.3.2.2 Effects of ageing

Manipulation can be impaired by an inability to use both hands (or feet) when carrying out an activity. It is also affected when joint movement, particularly of the hands or arms, is restricted. Speed of manipulation also declines in old age as a result of slower reaction time and slower movement.

9.3.2.3 Risks and hazards

Individuals with impaired manipulation may risk injury through inadvertently dislodging a device during use. Product design needs to minimize the hazards and consequences of unintended actions.

9.3.3 Movement

9.3.3.1 Description

Movement relates to activities of maintaining and changing the body position and transferring oneself from one area to another using legs, feet, arms and hands.

9.3.3.2 Effects of ageing

Many impairments in movement are experienced in older age which can result in difficulties in daily living, such as dressing, sitting down and getting up again. Examples include:

- limited ability to bear mass on the legs,
- reduced walking speed and step length and/or height,
- restricted range of movement in the joints of arms, legs and spine,
- difficulty carrying out a controlled and coordinated movement.

9.3.3.3 Design considerations

Some people with movement difficulties are assisted by equipment such as wheelchairs or walking aids; others may require personal help. In both cases, extra space is needed around them to allow for approach and manoeuvring.

9.3.3.4 Risks and hazards

People with impaired movement are particularly at risk during emergency evacuation of vehicles or buildings.

9.3.4 Strength and endurance

9.3.4.1 Description

Strength relates to the force generated by the contraction of a muscle, or muscle group, when carrying out an activity. Strength can be the force exerted with a specific part of the body in a specific action (e.g. pushing) or

applied to a specific object (e.g. opening bottle tops). Activities include pulling, lifting, pressing, gripping, pinching and twisting.

Strength also depends on **endurance**, the capacity to sustain force. This can be related to heart and lung function. Limited strength is common to many physically disabling conditions and is a common reason for being unable to operate equipment.

9.3.4.2 Effects of ageing

Reductions in muscle power and stamina are common in older age resulting in impairment of strength. Impairment of grip strength can make it difficult or painful to operate an appliance against resistance or torque. Limitations of stamina will cause fatigue when use of a product requires prolonged activity. Control of passive movement (i.e. when an external force such as gravity causes the motion) can be impaired resulting in difficulties, e.g. lowering a heavy object to the ground or sitting down on a chair.

9.3.5 Voice

9.3.5.1 Description

Voice relates to the sound produced by the vocal organs, usually as speech. Speech impairments may influence speech in a general way, or only certain aspects of it such as articulation, volume, fluency, speed, melody and rhythm.

9.3.5.2 Design considerations

The principal consequence of speech impairment is the barrier to communication and social interaction. Alternative forms of communication, such as sign language, or devices such as speech amplification, speech synthesis, or use of facsimile or keyboards, may assist.

9.4 Cognitive abilities

9.4.1 General

9.4.1.1 Cognition is the understanding, integrating and processing of information. The information includes abstraction and organization of ideas and time-management.

9.4.1.2 People with a cognitive impairment may have trouble learning new things, making generalizations and associations, and expressing themselves through spoken and written language. These impairments can produce anxiety, loneliness, depression, delusions, obsessions and compulsions. Such disorders may result in reduced ability to concentrate on a task.

9.4.2 Intellect

9.4.2.1 Description

Intellect is the capacity to know, understand and reason.

9.4.2.2 Effects of ageing

As people get older they may have more difficulty concentrating and in continuing to pay attention to a task. Changes in the sleep/wake rhythm may mean older persons are sleepy and thus less alert during the day. Conditions such as dementia and Alzheimer's disease, which are more predominant among older persons, lead to progressive intellectual decline, confusion and disorientation.

9.4.2.3 Design considerations

Impairment leads to perception problems, which include difficulty taking in, attending to, and discriminating sensory information. Difficulties in problem-solving include recognizing the problem, identifying, choosing and implementing solutions, and evaluating the outcome.

9.4.3 Memory

9.4.3.1 Description

Memory relates to specific mental functions of registering and storing information and retrieving it as needed.

9.4.3.2 Effects of ageing

Failing memory affects people's ability to recall and learn things and may also lead to people being confused. Short-term or long-term memory can be affected. Short-term memory is more important for product use. People can forget what they should be doing before they complete a task.

9.4.3.3 Risks and hazards

Memory impairment can lead to a hazard if an uncompleted task results in a dangerous situation such as the gas supply turned on but not ignited. Design needs to ensure that systems are "fail-safe".

9.4.4 Language/literacy

9.4.4.1 Description

Language and literacy are the specific mental functions of recognising and using signs, symbols and other components of a language.

9.4.4.2 Effects of ageing

Ageing sometimes affects a person's language ability, for example as the result of a stroke. When people have a stroke, their language ability may be affected. They may be able to think in the same manner but be unable to express their thoughts in words. Language impairment may cause difficulty in any, some or all of comprehension or expression of written or spoken language. People of all ages with dyslexia have difficulties in reading and writing.

9.4.4.3 Risks and hazards

People with a language impairment may be put at risk if they are unable to comprehend written warnings or significant instructions.

9.5 Allergies

9.5.1 Description

9.5.1.1 An allergy is an immunological reaction to a substance which may be serious and, in some circumstances, life-threatening. Allergies are also disabling when the need to avoid contact with an allergen (the substance to which their body is hypersensitive), imposes limitations on an individual's activities. In view of the implications for products, particularly labelling and warnings, information is provided on this topic.

9.5.1.2 Types of allergens that cause allergic reactions include pollens, dust particles, mould spores, food, latex rubber, insect venom and certain medicines. Many products and devices unnecessarily contain substances, such as nickel, which cause allergic responses.

9.5.1.3 Allergic reactions can range from mild and annoying to sudden and life-threatening. An example of sudden reaction is swollen throat and acute difficulties in breathing for people allergic to a certain foodstuff.

9.5.2 Contact allergies

Contact allergies are caused by allergens that enter the body through the skin. They are particularly contained in powders, lotions, perfumes, scented products, cosmetics, household chemicals, some metals or latex, and may be found in many household, building and electrical appliances. Contact allergy is prevalent among about 15 % of the population and is often life-long.

9.5.3 Food allergies

A food allergy is a reaction or intolerance to one or more foodstuffs. A great number of foods can cause allergic reactions, the most common being milk, wheat, soy, egg, peanuts and fish. Food colours, preservatives and additives are also a major cause of allergy.

9.5.4 Respiratory allergies

9.5.4.1 Airborne allergens cover those that are inhaled, such as dust, pollen, mites, moulds and animal detritus. The most typical respiratory allergy is asthma, which results in constriction of the respiratory channels and breathlessness.

9.5.4.2 For the purposes of this Guide, this clause includes chemical sensitivities, i.e. reactions to chemicals in the human environment. These allergy-like reactions may result from exposure to a wide variety of synthetic and natural substances, such as those found in paints, carpeting, building materials, plastics, perfumes, cigarette smoke and plants.

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NOTE ISO/TC 159 is currently working on a future Technical Specification, *Ergonomics of the thermal environment — Application of International Standards to the disabled, the aged and other handicapped persons*, and a future Technical Report, *Ergonomics of human-system interaction — Guidance on accessibility for human-computer interfaces*, although these are not yet publicly available. ISO/TC 145 is responsible for graphical symbols.



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Workshop: Soluzioni per eliminare gli ostacoli all'accessibilità

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Il diritto dell'UE sulla disabilità e la UNCRPD, Treviri, 30 maggio 2017



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Progettazione universale/Progettazione per tutti

Definizione UNCRPD: “si intende la progettazione di prodotti, ambienti, programmi e servizi utilizzabili da tutte le persone, nella misura più estesa possibile, senza il bisogno di adattamenti o di progettazioni specializzate. La "progettazione universale" non esclude dispositivi assistivi per particolari gruppi di persone con disabilità, ove ciò si renda necessario.”

Principi di progettazione universale

- Equità di utilizzo
- Flessibilità di utilizzo
- Utilizzo semplice e intuitivo
- Informazioni di tipo percettivo
- Tolleranza per gli errori
- Sforzo fisico ridotto
- Dimensioni e spazi adatti all'accesso e all'utilizzo

Accessibilità

“La misura in cui prodotti, sistemi, servizi, ambienti e strutture possono essere utilizzati da persone di una popolazione con la più ampia gamma di caratteristiche e capacità per raggiungere un determinato obiettivo in un determinato contesto di utilizzo”

ISO 26800, Ergonomia — Approccio, principi e concetti generali

Gruppo 1 – Obiettivi di accessibilità

Riflettete su cosa serve per raggiungere i seguenti obiettivi

1. Idoneità per la più ampia gamma possibile di utenti
2. Conformità alle aspettative degli utenti
3. Sostegno alla personalizzazione
4. Accessibilità
5. Percettibilità
6. Comprensibilità
7. Manovrabilità
8. Usabilità
9. Tolleranza degli errori
10. Equità di utilizzo
11. Compatibilità con altri sistemi

Gruppo 2 – Capacità e caratteristiche umane

Pensate alle barriere e ideate soluzioni per superarle:

1. Sensoriali: vista, udito, tatto, gusto e olfatto
2. Immunologiche
3. Fisiche: dimensioni del corpo, capacità di movimento della parte superiore e inferiore del corpo; forza e resistenza; voce e parola
4. Cognitive: globali (intelletto, consapevolezza, energia e motivazione); specifiche (percezione, attenzione, apprendimento, memoria, linguaggio, capacità di ragionamento, soluzione di problemi, processo decisionale e lettura), e affettive (emotive).

Considerazioni di progettazione (Guida ISO 71)

1. Fornire più strumenti di presentazione delle informazioni e interazione con gli utenti
2. Stabilire parametri fissi per trovare soluzioni per la più ampia gamma possibile di utenti
3. Stabilire parametri modificabili per trovare soluzioni per la più ampia gamma possibile di utenti
4. Ridurre al minimo le complessità inutili
5. Fornire accesso personalizzato a un sistema
6. Eliminare inutili limitazioni e vincoli all'interazione dell'utente con un sistema
7. Garantire la compatibilità con tecnologia e prodotti assistivi
8. Fornire versioni alternative di un sistema



Grazie!

Per maggiori informazioni, contattare la segreteria EDF:
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Allegato C (informativo)

Domande per contribuire a realizzare gli obiettivi di accessibilità

Tabella C.1: lista di controllo che aiuta gli sviluppatori di norme a chiedere, rispondere, applicare le varie domande riguardanti gli obiettivi di accessibilità di cui alla [Sezione 6](#). Le domande della [Sezione 6](#) sono riportate nella colonna di sinistra, intitolata "Domanda". La colonna di mezzo, intitolata "Risposta" può essere utilizzata per registrare le risposte a ciascuna di queste domande; può includere la fonte delle risposte. La colonna di sinistra, intitolata "Sezione(i)/sottosezione(i) della documentazione", serve per registrare i punti specifici della documentazione interessati dalle risposte alle domande.

NOTA Il termine "documentazione" è utilizzato per descrivere tutti i tipi di documenti prodotti prendendo in considerazione gli obiettivi di accessibilità nella sezione, come norme, specifiche tecniche, relazioni tecniche, specifiche pubblicamente disponibili, guide, raccomandazioni UIT o accordi tecnici.

**Tabella C.1 — Lista di controllo per le domande riguardanti gli obiettivi
di accessibilità**

Domanda	Risposta	Sezione(i)/sottosezione(i) della documentazione
6.2.1.5 a) Chi sono gli utenti potenziali dei sistemi che saranno interessati da o che saranno in relazione con questa documentazione?		
6.2.1.5 b) Quali eventuali utenti potenziali potrebbero essere esclusi dai requisiti o dalle raccomandazioni di questa documentazione?		
6.2.1.5 c) Quali sono tutti i contesti di utilizzo in cui i sistemi che si riferiscono a questa documentazione potrebbero essere utilizzati?		
6.2.1.5 d) Quali contesti di utilizzo potrebbero essere esclusi dai requisiti o dalle raccomandazioni di questa documentazione?		
6.2.2.5 a) Quali sono le aspettative/esperienze dei vari utenti dei sistemi che si riferiscono a questa documentazione?		
6.2.2.5 b) Sono disponibili informazioni su aspettative degli utenti frustrate o confermate dai prodotti interessati dalla documentazione in questo settore?		
6.2.2.5 c) Quali conflitti con le aspettative degli utenti potenziali potrebbero derivare dall'utilizzo di questa documentazione?		
6.2.2.5 d) Quali nuove aspettative utente saranno create utilizzando questa documentazione?		

Tabella C.1 (seguito)

Domanda	Risposta	Sezione(i)/sottosezione(i) della documentazione
6.2.3.5 a) Quali aspetti di interazione utente con i sistemi che si riferiscono a questa documentazione l'utente dovrebbe essere in grado di personalizzare?		
6.2.3.5 b) Quali aspetti di interazione utente con i sistemi che si riferiscono a questa documentazione potrebbero rappresentare delle barriere se non sono personalizzabili?		
6.2.3.5 c) Quali serie riconosciute o innovative di preferenze o opzioni individuali potrebbero essere raccomandate dalla documentazione per una potenziale attuazione all'interno dei sistemi?		
6.2.3.5 d) In che modo il contesto in cui la documentazione viene utilizzata influisce sulle preferenze o opzioni individuali identificate che sono necessarie?		
6.2.4.5 a) In che modo questa documentazione potrebbe garantire che i sistemi finali che ad essa fanno riferimento possano essere fisicamente e psicologicamente accessibili da diversi tipi di utenti affinché essi siano in grado di svolgere le loro mansioni?		
6.2.4.5 b) In che modo questa documentazione potrebbe garantire che i sistemi che ad essa fanno riferimento possano essere accessibili a distanza da diversi tipi di utenti per svolgere le loro mansioni?		
6.2.4.5 c) In che modo questa documentazione potrebbe evitare limiti all'accessibilità fisica, psicologica o a distanza per diversi tipi di utenti in diversi contesti di utilizzo?		
6.2.5.5 a) Nel campo di applicazione di questa documentazione, quali informazioni dovrebbero essere presentate dai sistemi agli utenti?		
6.2.5.5 b) In che modo questa documentazione potrebbe garantire che diversi tipi di utenti in contesti diversi possano percepire le informazioni presentate nei sistemi che si riferiscono alla documentazione?		
6.2.5.5 c) In che modo questa documentazione limita le modalità che un sistema utilizza per presentare le informazioni agli utenti?		
6.2.6.5 a) Per sistemi all'interno del campo di applicazione di questa documentazione, quali informazioni e funzionalità dovrebbero essere presentate e che dovrebbero essere comprese dagli utenti?		

Tabella C.1 (seguito)

Domanda	Risposta	Sezione(i)/sottosezione(i) della documentazione
6.2.6.5 b) In che modo potrebbe questa documentazione contribuire a far sì che informazioni e funzionalità del sistema siano comprensibili da diversi tipi di utenti?		
6.2.6.5 c) In che modo questa documentazione potrebbe aiutare diversi tipi di utenti a imparare a utilizzare le informazioni e le funzionalità dei sistemi che ad essa fanno riferimento?		
6.2.6.5 d) In che modo potrebbe questa documentazione garantire che i sistemi evitino inutili domande di tipo cognitivo agli utenti potenziali?		
6.2.7.5 a) Per i sistemi all'interno del campo di applicazione di questa documentazione, quali azioni di controllo gli utenti devono essere in grado di avviare e completare?		
6.2.7.5 b) In che modo questa documentazione potrebbe garantire che diversi tipi di utenti in diversi contesti di utilizzo siano in grado di avviare e completare le azioni necessarie per svolgere le loro mansioni?		
6.2.7.5 c) In che modo questa documentazione potrebbe evitare di limitare le modalità che un utente può utilizzare per avviare e completare le azioni necessarie per svolgere le loro mansioni?		
6.2.8.5 a) In che modo un sistema che si riferisce a questa documentazione potrebbe aiutare diversi tipi di utenti in diversi contesti a svolgere con efficacia le loro mansioni?		
6.2.8.5 b) In che modo un sistema che si riferisce a questa documentazione potrebbe aiutare diversi tipi di utenti in diversi contesti a svolgere le loro mansioni in maniera efficace per ciascuno di loro?		
6.2.8.5 c) In che modo un sistema che si riferisce a questa documentazione potrebbe aiutare diversi tipi di utenti in diversi contesti a svolgere le loro mansioni in maniera soddisfacente per ciascuno di loro?		
6.2.8.5 d) In che modo un sistema che si riferisce a questa documentazione potrebbe evitare di limitare l'usabilità del sistema per alcuni utenti?		
6.2.9.5 a) In che modo un sistema che si riferisce a questa documentazione potrebbe aiutare nel ridurre al minimo le conseguenze negative		
6.2.9.5 b) In che modo un sistema che si riferisce a questa documentazione potrebbe aiutare a prevenire gli errori?		

Tabella C.1 (seguito)

Domanda	Risposta	Sezione(i)/sottosezione(i) della documentazione
6.2.9.5 c) In che modo un sistema che si riferisce a questa documentazione potrebbe aiutare a ridurre al minimo gli errori?		
6.2.9.5 d) In che modo questa documentazione potrebbe aiutare il sistema risultante a consentire agli utenti di riparare gli errori?		
6.2.10.5 a) In che modo un sistema che si riferisce a questa documentazione potrebbe garantire che diversi tipi di utenti possano interagire con il sistema stesso in maniera identica o equivalente?		
6.2.10.5 b) Esistono elementi del sistema con cui alcuni utenti potrebbero non essere in grado di interagire in maniera identica o equivalente?		
6.2.10.5 c) In che modo i sistemi che si riferiscono a questa documentazione segregano, stigmatizzano o discriminano nei confronti di alcuni utenti?		
6.2.10.5 d) I requisiti e le raccomandazioni di questa documentazione promuoveranno l'integrazione sociale trattando tutti i gruppi con accesso uguale o equivalente?		
6.2.11.5 a) In che modo questa documentazione potrebbe garantire che diversi tipi di utenti possano utilizzare i propri prodotti assistivi o la propria tecnologia assistiva (all'occorrenza) con qualsiasi sistema che si riferisce alla documentazione stessa?		
6.2.11.5 b) In che modo questa documentazione potrebbe evitare di limitare la capacità degli utenti di utilizzare le proprie tecnologie o prodotti assistivi (all'occorrenza) con qualsiasi sistema che si riferisce alla documentazione stessa?		
6.2.11.5 c) In che modo questa documentazione potrebbe garantire che i sistemi che vi fanno riferimento siano compatibili con altri sistemi in una gamma di contesti di utilizzo per facilitare l'accessibilità di diversi tipi di utenti?		

Tabella 1 — Fattori da considerare nelle sezioni sull'informazione

Prodotti e servizi progettati nel modo migliore evitano il bisogno di informazioni esplicative, segnalando, tramite forma e aspetto, il modo in cui devono essere utilizzati. Inoltre, alcuni utenti potrebbero non prestare attenzione alle informazioni fornite. Tuttavia, laddove l'informazione viene fornita, in particolare gli avvisi di sicurezza, essa deve essere disponibile per tutti gli utenti del prodotto o servizio in questione. La Guida ISO/CEI 37:1995 offre un orientamento generale; i seguenti criteri servono per garantire la massima accessibilità agli anziani e alle persone con disabilità.

Fattori da considerare Nelle sezioni standard sull'informazione (etichettatura, istruzioni e avvertenze)	Capacità umane												
	9.2 Sensoriali					9.3 Fisiche					9.4 Cognitive		9.5 Allergie
	Vista 9.2.1	Udito 9.2.2	Tatto 9.2.3	Gusto/ olfatto 9.2.4	Equilibrio 9.2.5	Destrezza a 9.3.1	Manipolazione 9.3.2	Movimento 9.3.3	Forza 9.3.4	Voce 9.3.5	Intelletto/ memoria 9.4.2/3	Lingua/ alfabetizzazione 9.4.4	Da contatto/ali- mentare/re- spettare
8.2 Formato alternativo													
8.3 Luogo/configurazione													
8.4 Illuminazione/abbagliamento													
8.5 Colore/contrasto													
8.6 Dimensione/stile del font													
8.7 Linguaggio chiaro													
8.8 Simboli/disegni													
8.9 Intensità/frequenza dei suoni													
8.10 Ritmo lento													
8.11 Forma distintiva													
8.12 Facilità di manipolazione													
8.13 Indicazione della data di scadenza													
8.14 Etichettatura del contenuto													
8.15 Temperatura di superficie													
8.16 Vie accessibili													

Tabella 2 — Fattori da considerare nelle sezioni sull'imballaggio

Gli aspetti da considerare includono l'etichettatura degli imballaggi che si sovrappone alle informazioni riportate nelle tabelle 1 (istruzioni), 3 (materiali) e il processo di apertura e smaltimento dell'imballaggio.

Fattori da considerare nelle sezioni standard sull'imballaggio (apertura, chiusura, utilizzo e smaltimento)	Capacità umane												
	9.2 Sensoriali					9.3 Fisiche					9.4 Cognitive		9.5 Allergie
	Vista 9.2.1	Udito 9.2.2	Tatto 9.2.3	Gusto/ olfatto 9.2.4	Equilibrio 9.2.5	Destrezza 9.3.1	Manipolazione 9.3.2	Movimento 9.3.3	Forza 9.3.4	Voce 9.3.5	Intelletto/ memoria 9.4.2/3	Lingua/ alfabetizzazione	Da contatto/ali mentare/re
8.2 Formato alternativo													
8.4 Illuminazione/abbagliamento													
8.5 Colore/contrasto													
8.6 Dimensione/stile del font													
8.8 Simboli/disegni													
8.11 Forma distintiva													
8.12 Facilità di manipolazione													
8.17 Processo logico													
8.18 Finitura di superficie													
8.19 Non allergenico/tossico													

Tabella 3 — Fattori da considerare nelle sezioni sui materiali

La natura dei materiali ha un impatto sulle interazioni degli utenti.

Fattori da considerare nelle sezioni standard sui materiali	Capacità umane												
	9.2 Sensoriali					9.3 Fisiche					9.4 Cognitive		9.5 Allergie
	Vista 9.2.1	Udito 9.2.2	Tatto 9.2.3	Gusto/ olfatto 9.2.4	Equilibrio 9.2.5	Destrezza 9.3.1	Manipolazione 9.3.2	Movimento 9.3.3	Forza 9.3.4	Voce 9.3.5	Intelletto/ memoria 9.4.2/3	Lingua/ alfabetizzazione 9.4.4	Da contatto/alimentare/re
8.4.4 Abbagliamento													
8.5 Colore/contrasto													
8.11 Forma distintiva													
8.12 Facilità di manipolazione													
8.14 Etichettatura del contenuto													
8.15 Temperatura di superficie													
8.18 Finitura di superficie													
8.19 Non allergenico/tossico													
8.20 Acustica													

Tabella 4 — Fattori da considerare nelle sezioni sulle installazioni

In molti casi, le installazioni vengono eseguite o devono essere eseguite da persone qualificate con meno probabilità di avere determinate limitazioni, per esempio a livello di forza. Tuttavia, occorre prestare attenzione per tenere in considerazione, ove possibile, capacità diverse.

Fattori da considerare nelle sezioni standard sull'installazione	Capacità umane												
	9.2 Sensoriali					9.3 Fisiche					9.4 Cognitive		9.5 Allergie
	Vista 9.2.1	Udito 9.2.2	Tatto 9.2.3	Gusto/ olfatto 9.2.4	Equilibrio 9.2.5	Destrezza a 9.3.1	Manipolazione 9.3.2	Movimento 9.3.3	Forza 9.3.4	Voce 9.3.5	Intelletto/ memoria 9.4.2/3	Lingua/ alfabetizzazione	Da contatto/ali mentare/re
8.4 Illuminazione/abbagliamento													
8.8 Simboli/disegni													
8.11 Forma distintiva													
8.12 Facilità di manipolazione													
8.17 Processo logico													
8.18 Finitura di superficie													
8.19 Non allergenico/tossico													
8.21 Sicurezza in casa di avaria													

Tabella 5 — Fattori da considerare nelle sezioni sull'interfaccia utente

Questa è la parte in cui l'attenzione rivolta ai fattori può influire maggiormente sull'usabilità da parte di un'ampia gamma di utenti.

Fattori da considerare nelle sezioni standard sull'interfaccia utente (manipolazione, controlli e riscontro)	Capacità umane												
	9.2 Sensoriali					9.3 Fisiche					9.4 Cognitive		9.5 Allergie
	Vista 9.2.1	Udito 9.2.2	Tatto 9.2.3	Gusto/ olfatto 9.2.4	Equilibrio 9.2.5	Destrezza 9.3.1	Manipolazione 9.3.2	Movimento 9.3.3	Forza 9.3.4	Voce 9.3.5	Intelletto/ memoria 9.4.2/3	Lingua/ alfabetizzazione 9.4.4	Da contatto/ali- mentare/re
8.2 Formato alternativo													
8.3 Luogo/configurazione													
8.4 Illuminazione/abbagliamento													
8.5 Colore/contrasto													
8.6 Dimensione/stile del font													
8.7 Linguaggio chiaro													
8.8 Simboli/disegni													
8.9 Intensità/frequenza dei suoni													
8.10 Ritmo lento													
8.11 Forma distintiva													
8.12 Facilità di manipolazione													
8.15 Temperatura di superficie													
8.17 Processo logico													
8.18 Finitura di superficie													
8.19 Non allergenico/tossico													
8.20 Acustica													
8.21 Sicurezza in casa di avaria													

Tabella 6 — Fattori da considerare nelle sezioni su manutenzione, conservazione e smaltimento

Queste operazioni possono essere eseguite da persone diverse dall'utente; cfr. anche la Tabella 4.

Fattori da considerare nelle sezioni standard su manutenzione, conservazione e smaltimento	Capacità umane												
	9.2 Sensoriali					9.3 Fisiche					9.4 Cognitive		9.5 Allergie
	Vista 9.2.1	Udito 9.2.2	Tatto 9.2.3	Gusto/ olfatto 9.2.4	Equilibrio 9.2.5	Destrezza 9.3.1	Manipolazione 9.3.2	Movimento 9.3.3	Forza 9.3.4	Voce 9.3.5	Intelletto/ memoria 9.4.2/3	Lingua/ alfabetizzazione	Da contatto/allimentare/re
8.2 Formato alternativo													
8.4 Illuminazione/abbagliamento													
8.8 Simboli/disegni													
8.11 Forma distintiva													
8.12 Facilità di manipolazione													
8.17 Processo logico													
8.19 Non allergenico/tossico													

Tabella 7 — Fattori da considerare nelle sezioni riguardanti l'ambiente costruito (edifici)

La progettazione dell'ambiente costruito può dover tener conto dei requisiti aggiuntivi della tecnologia assistiva. Per esempio, servono corridoi più ampi per il passaggio delle carrozzine a rotelle. Gli edifici normalmente chiusi agli animali devono comunque garantire l'accesso ai cani da lavoro. Quando le soluzioni di progettazione sono limitate da vincoli, il fornire assistenza personale a, per esempio, persone ipovedenti o su carrozzina a rotelle può facilitare l'accesso.

Fattori da considerare nelle sezioni riguardanti l'ambiente costruito (edifici)	Capacità umane												
	9.2 Sensoriali					9.3 Fisiche					9.4 Cognitive		9.5 Allergie
	Vista 9.2.1	Udito 9.2.2	Tatto 9.2.3	Gusto/ olfatto 9.2.4	Equilibrio 9.2.5	Destrezza a 9.3.1	Manipolazione 9.3.2	Movimento 9.3.3	Forza 9.3.4	Voce 9.3.5	Intelletto/ memoria 9.4.2/3	Lingua/ alfabetizzazione 9.4.4	Da contatto/ali- mentare/re
8.2 Formato alternativo													
8.3 Luogo/configurazione													
8.4 Illuminazione/abbagliamento													
8.5 Colore/contrasto													
8.6 Dimensione/stile del font													
8.7 Linguaggio chiaro													
8.8 Simboli/disegni													
8.9 Intensità/frequenza dei suoni													
8.10 Ritmo lento													
8.12 Facilità di manipolazione													
8.15 Temperatura di superficie													
8.16 Vie accessibili													
8.18 Finitura di superficie													
8.19 Non allergenico/tossico													
8.20 Acustica													
8.22 Ventilazione													
8.23 Resistenza antincendio													