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Employment, Social Affairs and Equal Opportunities DG

Equality between Men/Women, Action against discrimination, Civil Society
Integration of People with Disabilities

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STANDARDISATION MANDATE TO CEN CENELEC AND ETSI IN SUPPORT OF EUROPEAN ACCESSIBILITY REQUIREMENTS FOR PUBLIC PROCUREMENT IN THE BUILT ENVIRONMENT

1. POLICY BACKGROUND

Accessibility to the built infrastructure is essential for people with disabilities to be able to exercise their rights and participate fully in society. The right to education, to engage in work can only be accessed if people with disabilities are able to enter, leave and use the place where those activities take place (schools, work environment). Furthermore, some citizens' rights related to voting, access to documents, and freedom of movement is often related to the feasibility of accessing public spaces, and to be able to move inside such public spaces. Furthermore, accessibility to the public built environment is essential to ensure access to transport (stations, airports, harbours) and to leisure and cultural facilities (libraries, museums, theatres, cultural centres, concert halls, hotels, restaurants, etc.). In fact, in some countries, lack of access to the built environment is considered a form of discrimination.

In the UN Convention on the rights of persons with disabilities¹, accessibility is specifically required, namely in the General principles, in the General obligations and in several articles. In particular, article 9 addresses, among others, accessibility in the built environment, transportation, and information and communication, making specific reference to the role of standards to achieve its goals. Both the EU and almost all its Member States have signed the Convention and, as a consequence, need to comply with those requirements.

The Communication COM(2003) 650 final of 30 October 2003 "Equal opportunities for people with disabilities, a European Action plan", which aims to achieve a sustainable and operational approach to disability issues in the enlarged Europe, identified as one of the four concrete priorities "accessibility to the public built environment to improve participation in the work place and integration into the economy and society". This goal is reinforced in the follow-up Communication COM (2005/ 604 final of 28 November 2005 "Situation of disabled people in the enlarged European Union: the European Action plan 2006-2007".

¹ UN Convention on the rights of persons with disabilities
<http://www.un.org/esa/socdev/enable/conventioninfo.htm>

Furthermore, the European Commission has issued a Communication COM (2007) 501 on the Policy for the accommodation of Commission Services in Brussels and Luxemburg that refers to the accessibility of Commission buildings for persons with disabilities.

In its **EP REPORT A6-0351/2006** from October 2006 on the situation of people with disabilities in the enlarged European Union: the European Action Plan 2006-2007 2006/2105(INI)), the European Parliament "calls for more to be done in terms of infrastructure to allow access to the built and newly-designed environment for people with disabilities, highlighting the importance of suitable access for people with disabilities from the planning and administrative approval stage, of standard design in buildings, fixtures and fittings and the elimination of architectural barriers; calls on the Commission to exercise fully its responsibilities in this respect in implementing the Structural Funds regulations during the period 2007-2013 and calls on the EU institutions to take the necessary measures in the interest of making their buildings accessible to everyone."

Furthermore, the EP report on housing and regional (2006/2108(INI)) stresses the importance of accessibility to the built environment for people with disabilities.

The Council RESOLUTION of 15 July 2003 on promoting the employment and social integration of people with disabilities (2003/C 175/01) asks to "remove barriers impeding the participation of people with disabilities in social life and, in particular, in working life, and prevent the setting up of new barriers through the promotion of design for all".

This is complemented by the **COUNCIL RESOLUTION of 6 February 2003** 'eAccessibility' — improving the access of people with disabilities to the knowledge based society (2003/C 39/03) that calls to " promote a feedback of standardisation activities and their impact on the real-life situation of the elderly and people with disabilities; tackle the removal of technical, legal and other barriers to their effective participation in the knowledge based economy and society."

In addition, Article 13 of the Treaty provides for measures against discrimination inter alia on the grounds of disability. In November 1999 the European Commission adopted an anti-discrimination package based on Article 13 of the Treaty which led to a Directive in the field of employment and occupation prohibiting discrimination on all grounds listed in Article 13. The Equal Treatment in employment Directive (2000/78) makes mandatory the principle of reasonable accommodation for disabled employees in employment and training.

An accessible built environment is basic to accommodate persons with reduced mobility in the workplace and can be seen as a way to prevent problems concerning collective accommodation of people with disabilities.

Public purchases constitute an important market: total public procurement in the EU (15) amounts to €1.500 billion or 16% of the Union's GDP. To ensure fair conditions for the cross-border competition of suppliers, public procurement is subject to Community and international rules. However, according to the Public Procurement Directives it is possible to integrate social considerations² and specifically the use of Design for All and Accessibility requirements in the

² Directive 2004/18/EC of 31 March 2004 of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts, OJ L 134/114 of 30 April 2004. Also available at: http://europa.eu.int/comm/internal_market/publicprocurement/legislation_en.htm
http://europa.eu.int/smartapi/cgi/sga_doc?smartapi!celexapi!prod!CELEXnumdoc&lg=EN&numdoc

technical specifications in the contract documentation for public bids. There are also possibilities for including Design for All and Accessibility in the technical specifications and award criteria addressing the social area in order to remove barriers for the participation of people with disabilities and facilitate their participation in society. Several Member States are already using these possibilities. At international level several countries such as the US and Canada are asking for accessible ICT products and services in their public tenders. The USA also has formal standards in the area of accessible built environment that are used in their legislation.

2. JUSTIFICATION

This mandate falls within the framework of the general policy of the Commission with respect to technical harmonisation and standardisation and supports disability policies.

Europe is promoting a “Design for All” approach to the built environment so that buildings and public spaces are readily usable by as many people as possible and accessible to all. Furthermore, it is well known that the costs to build an accessible building from the beginning are negligible, while introducing ad-hoc accessibility solutions at a later stage is not only costly but also usually less satisfactory for the public including, of course, for persons with disabilities. In this context, having clear standards that define functional requirements for accessibility to the built environment to be used in public procurement can facilitate a policy for the prevention of accessibility barriers. These standards could also be used when a building is being renovated and accessibility solutions are needed as a guidance of the desirable solutions.

Moreover, accessible built environments are economically attractive. The functionality is more flexible and the infrastructure more sustainable as there is less need for expensive adaptations of the environments at a latter stage.

Although access to the built environment is essentially a Member State responsibility, the above mentioned Commission 2003 Communication on "Establishing equal opportunities for people with disabilities: A European Action Plan" committed itself to take into account the recommendations made in 2003 by the Group of independent experts on accessibility to the Built environment and expressed in the report called " 2010: a Europe for All". In particular two activities were indicated under the Action Plan chapter on "Accessibility to the built environment": Promoting the inclusion of accessibility provisions in public procurement policies and, secondly, in the allocation of Structural Funds at national and regional levels. This is achieved in the revised Public Procurement Directives and in the new Structural Funds Regulation (Art.16). According to the Public Procurement Directives it is possible to integrate social considerations³ and specifically the use of Design for All and Accessibility requirements in the technical specifications in the contract documentation for public bids.

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³ Directive 2004/18/EC of 31 March 2004 of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts, OJ L 134/114 of 30 April 2004. Also available at: http://europa.eu.int/comm/internal_market/publicprocurement/legislation_en.htm
http://europa.eu.int/smartapi/cgi/sga_doc?smartapi!celexapi!prod!CELEXnumdoc&lg=EN&numdoc=52001DC0566&model=guichett

Some Member States have regulatory and/or technical standards and conformity assessment schemes to assess accessibility of buildings, which are also used in public procurement. While many standards, building codes and other schemes (sometimes legislation) are based on previous work in ISO and guidance provided by CEN, the different national approaches are not harmonised and this could influence the acceptance/refusal of designs and/or products while in fact not influencing the level of accessibility of a building.

3. OBJECTIVE

Against this background, and based on the results of previous studies and stakeholders consultations, the main objective of this mandate is to:

- facilitate the public procurement of accessible built environment following the Design for All principles by developing a set of standards/Technical specifications that will contain (I) a set of functional European accessibility requirements of the built environment and (II) a range of minimum technical data to comply with those functional requirements.
- provide a mechanism through which the public procurers have access to an online toolkit, enabling them to make easy use of these harmonised requirements in procurement process.

4. DESCRIPTION OF THE MANDATED WORK

Despite the diversity in the specific technical solutions, at functional level, people with disabilities have similar accessibility requirements across Europe. It is important to keep in mind that these accessibility requirements of the built environment (including construction products, buildings, public buildings, public places, parking, routes, transport related built facilities like stations, ports, airport, recreation, leisure, cultural, educational and sport facilities...including internal as well as external share spaces and movement to/ inside/ from such buildings/ facilities/ spaces) must address the wide diversity of people with disabilities while not ignoring the specific requirements of target groups with different ages (including children and older persons, making specific differences if needed) and abilities. In particular, possible conflicting requirements like shared space issues need to be carefully addressed.

The mandated work includes accessibility to all the above mentioned venues in their foreseeable use, including emergency access and evacuation. Furthermore, as specified below and in connection to mandate M/376, any technology products and services used in intelligent buildings, for example for automatic doors, messaging systems, and orientation devices in build environment, should be also considered.

The work in the mandate shall make a distinction between the Design of buildings including access to/ from the building, i.e. the accessibility of the infrastructure, or the accessibility of floors and rooms inside the building, open venues, civil engineers work and Construction products.

It is important to note that the Construction Products Directive addresses safety requirements for construction works. When assessing the need for accessibility requirements related to

construction works, all safety requirements contained in the existing standards must be respected.

There may be instances where existing Community legislation addresses accessibility issues, as with the example of the construction products Directive above, but also in other spheres such as rail travel passenger ships, buses and coaches and airports. Part of the work carried out under this mandate is to seek out such instances and take due account of them.⁴

The Mandate should provide guidance at 2 levels:

- **First**, defining a European standard at the level of common *functional* requirements for accessibility in the built environment that can be used for public procurement. Tendering authorities should be presented with a set of comprehensive functional parameters from which they will select the parameters that correspond to the construction work that will be undertaken.

For example, a requirement could describe the specific needs of people i.e. using wheel chairs, people carrying children in prams, travellers carrying luggage or people with hearing or seeing disabilities to approach, enter, move inside and to leave buildings and infrastructures and describe the aspects in design, or the use of materials/products that have to be taken into consideration

- **Second** defining European standard/Technical specifications that describe the *technical* details to be able to fulfil the above mentioned functional accessibility requirements, for example, the minimum adequate width of a door.

In this light, the ESOs are mandated to carry out the following work:

Phase I

Inventory and feasibility of European and international accessibility standards in the built environment

After formal acceptance of the mandate, CEN/CENELEC and ETSI will present to the Commission a detailed proposal for the Work Programme after 6 months.

The deliverables shall be submitted to the Commission not later than 18 Months after the acceptance of the mandate, and shall consist of two Technical Reports:

(I.1) A first Technical report covering

(a) An inventory of existing standards, building codes, technical regulations and guidance documents for accessibility to the built environment (including buildings, public places,

⁴ Trans-European Conventional and High Speed Rail System Technical Specification for Interoperability., EU Regulation 1107/2006 concerning the Regulation on rights and obligations of people with disabilities and passengers with reduced mobility when travelling by air.

transport related built facilities like stations, ports, airport... external public places and shared spaces) in Member States and internationally. It should include also other relevant guidance documents like European handbooks on accessibility or the international accessibility symbols. An analysis of whether they describe functional requirements or information on the technical performance criteria (including on construction products) shall be provided.

The inventory should also gather information on the use of these standards, building codes technical regulations and guidance documents in public procurement or in legislation and, if possible, whether the existing standards (even when not yet (regularly) used) would be suitable to be used as technical specifications and as criteria for awarding public contracts (in the sense of the Public Procurement Directives).

(b) **An analysis of gaps** identifying areas in the accessibility to the built environment where no standards, building codes, **technical regulations or guidance documents** exist or where the existing standards, building codes, **technical regulations or guidance documents** need to be complemented to have a comprehensive European standard. This analysis should distinguish between

- (I) functional accessibility requirements and
- (II) a range of minimum technical performance criteria to comply with those functional requirements.

(c) **A proposal for a standardisation work programme** for the development of two European standards

(I) A European Standard that contains a set of functional European accessibility requirements of the built environment making the distinction between design and products to be used as either technical specifications or as criteria for awarding public contracts (in the sense of the Public Procurement Directives).

(II) A European standard/Technical Specifications that describe the range of minimum technical details to comply with those functional requirements

The proposal should clarify for both standards and technical specifications the parts of the work where these requirements and technical performance criteria do not exist or are not yet standardised or where the existing requirements and technical details are not considered adequate or suitable as identified in the analysis gap for their use in public procurement. This proposal should contain a justification if, and which parts of the program should be carried out in Phase II of this Mandate.

It is important in all parts of the report (a,b,c) to distinguish between building/design level and (construction) product level, due to the fact that accessibility of the built environment depends mostly of the design and the foreseeable use of specific construction products that influence the performance of a building.

Whenever relevant in all above mentioned parts of the report, differences in the approach for new and renovated buildings should be described. Due to the more challenging situation for designers and constructors when renovating buildings, European standards should provide guidance for different levels of adapting existing buildings from minor/basic changes to a adaptation for complete accessibility.

When any specific technical parameter for accessibility for construction products as defined in the Construction Products Directive is identified, the report should give guidance about the relation of these specific parameter/requirement with the related existing harmonised

construction product standards. The TR shall take the foreseeable conditions of use of the product into consideration. Where several different conditions of intended and foreseeable use exist that result in different technical requirements, they should be described distinctly.

(I.2) A second technical report

Based on the results of mandate M/376 and to make the best use of the work carried out in this Phase, the European Standardisation Organisations (ESOs) will also prepare in the second technical report **an analysis of the existing conformity assessment schemes** of the buildings and products meeting accessibility requirements for the built environment (including buildings, public places, transport related built facilities like stations, ports, airport... external public places and shared spaces), in Member States and internationally (see mandate M 376 for further guidance). The analysis shall refer to existing schemes of this nature at European and international level. The analysis shall consider the full range of possible solutions, including supplier self-declaration, certification/ accreditation of suppliers, and third party certification schemes.

The analysis shall also address existing or propose requirements for suppliers' technical capacities and abilities in the accessibility domain, which can be used for the selection of suppliers or in support of the conformity process.

As a first step, the two draft versions of these technical reports will be submitted to an open and accessible review process organised by the ESOs in agreement with the Commission to facilitate feedback from all interested parties for example via Internet and an open event. The final reports submitted to the Commission will take due account of the European policy objectives, in particular in the field of accessibility, built environment and harmonisation. As a second step the Commission will decide (after consultation of stakeholders) when and if Phase II should be started.

Although the mandate contains proposals for the deliverables of Phase II, if the ESOs consider other deliverables more appropriate, the work programme should provide an indication of those deliverables best suited to carry out the work described in Phase II, as well as a justification of the proposed changes.

Phase II will start only after the agreement by the Commission of the deliverables of Phase I and the acceptance of the proposed standardisation plan

Phase II - Standardisation activities

The aim is to produce 3 deliverables:

- two European standards (I, II) and
- an online toolkit with guidance material (III)

(I) a European Standard at the level of common *functional* requirements that contains a set of functional European accessibility requirements of the built environment to be used as either technical specifications or as criteria for awarding public contracts (in the sense of the Public Procurement Directives) and

(II) a European standard that describes the *technical* performance criteria to be able to fulfil the above mentioned functional accessibility requirements with a set of values for minimum acceptable performance or a range/classes of technical values for minimum acceptable performance.

If needed, and as a result of the outcome of Phase I of this mandate, adjustments to the type of standardisation deliverables identified above could be done.

The draft European Standards shall be provided within 18 months of the start of Phase II. The ENs should be provided within 24 months of the start of Phase II, subject to due completion of the approval process by the ESOs.

(III) The content of these two standards should be accessible via an online toolkit.

The toolkit shall provide guidance in a clear and comprehensible text for public procurers. The functional requirements and technical performance criteria should be described in a user-friendly way so that the target audience, mainly procurer officers, designers and contractors, can use them as technical specifications and as award criteria in the tenders, or in support of conformity processes. Already existing requirements/guidelines/toolkits and best practices developed within this field in Europe and internationally should be taken into consideration.⁵

The on line toolkit and any related reports that contains guidance and support material for public procurements, should address at least planning guidelines and description of the process, examples of inclusion of accessibility in all phases of procurement, training of procure staff on the use of the developed material, inventory of existing accessibility support services and of accessibility support needs, verification of supplier claims of accessibility, tracking of non-compliance of products and services with accessibility requirements in tenders, information on the testing and conformity aspects.

This guidance and support material should be built upon that of Mandate 376 while complementing the already existing material with any relevant specific information related to the built environment.

The guidance and support material shall be provided within 18 months of the start of Phase II. A pilot version of the toolkit shall be available on line 18 months after the start of Phase II. The final on line toolkit shall be provided within 24 months of the start of Phase II.

5. EXECUTION OF THE MANDATE

In the Work Programme, referred above, CEN/CENELEC and ETSI will list any aspect (design characteristics, construction products, specific intended uses,...) among those specified in the mandate which are not intended to be taken as a work item of the Work Programme and the reasons why these aspects are not covered in the Work Programme. Design characteristics, products and/or specific intended end uses not specifically mentioned in the mandate but relevant to the product family referred to shall also be included in the programme.

⁵ See reference of the construction products guidance for public tendering

The way in which the design TR/standards could be integrated into product standards and European Technical Approvals/Common Understanding Assessment Procedures (ETAGs/CUAPs) needs to be described.

In addition, arrangements shall be made to establish relevant international co-operation, in particular with ongoing work in ISO/IEC/ITU.

The approach of developing accessibility standards to facilitate the use of accessibility requirements in public procurement has already been used in the area of Information and Communication technologies in the framework of the Disability Action Plan and the eAccessibility strategy. In this case, a mandate number 376 has been issued to the 3 European standardisation organisations CEN, CENELEC and ETSI. That mandate asks for a standard and an online toolkit as final deliverables to facilitate the use of accessibility requirements in public procurement. As ICT is an increasing important element in the built environment in intelligent buildings, for automatic doors, messaging systems, orientation devices in buildings, it is important to coordinate the activities between this mandate and Mandate 376 in order to ensure compatibility of the results, avoid duplication of work and the use of a common tool kit to facilitate the work to public procurers. Bringing the content of all these forthcoming standards in the area of accessibility together in an on line toolkit would facilitate enormously the inclusion of accessibility requirements in public procurement as well as providing guidance to the Member States for putting into practice the new accessibility article in the Structural Funds Regulations.

CEN/CENELEC and ETSI will immediately inform the Commission of any problem relating to the carrying out of the mandate from within the Technical Committees.

6. BODIES TO BE ASSOCIATED

CEN/CENELEC/ETSI will invite all relevant parties to participate in the work. These parties include relevant experts in the field of accessibility, industry associations, users with disabilities and elderly persons and other relevant organisations/consortia⁶.

⁶ e.g. industry representatives (like FIEC, NORMAPME and others where relevant), public authorities (i.e. public procurers and national organisations and authorities concerned with the implementation of Directives 2004/17/EC and 2004/18/EC, Consortium of European Building Control), people with disabilities and older people and their representative organisations like EDF, accessibility experts, architects (ACE/CAE), consumer organisations like ANEC and other standardisation stakeholders such as ECOS and ETUI-REHS. If appropriate, links and coordination with DATSCG⁶ should be maintained. In addition, arrangements shall be made to establish relevant international co-operation, where relevant, while closely coordinating with the EC.