



*European Economic and Social Committee*

**TEN/507**  
**Accessibility of public sector  
body websites**

Brussels, 22 May 2013

**OPINION**

of the  
European Economic and Social Committee  
on the

**Proposal for a Directive of the European Parliament and of the Council on the accessibility of  
public sector bodies' websites**

COM(2012) 721 final – 2012/0340 (COD)

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On 10 December 2012 and 18 December 2012 respectively, the European Parliament and the Council decided to consult the European Economic and Social Committee, under Articles 114 paragraph 1 and 304 of the Treaty on the Functioning of the European Union, on the

*Proposal for a Directive of the European Parliament and of the Council on the accessibility of public sector bodies' websites*  
COM(2012) 721 final – 2012/0340 (COD).

The Section for Transport, Energy, Infrastructure and the Information Society, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 30 April 2013.

At its 490th plenary session, held on 22 and 23 May 2013 (meeting of 22 May), the European Economic and Social Committee adopted the following opinion by 148 votes to 1 with 6 abstentions.

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## 1. **General observations and recommendations**

- 1.1 The EESC welcomes the initiative from the European Commission. The relevancy of the proposal is unquestionable and reflects an ambition to serve both citizens and the providers of web services in the EU, by facilitating the creation of an internal market for web-accessibility.
- 1.2 The EESC, however, has serious concerns about the adequacy of the proposed means to realise this ambition. A strong legal instrument is needed in order to avoid that budget constraints, brought about by the current economic crisis, are used as a misplaced excuse for the possible failure of Member States to implement the Directive.
- 1.3 The scope of the Directive is limited, thereby narrowing down the categories of public body websites falling within the requirements of the Directive. The potential consequence is a lack of access to essential services provided through public websites that fall outside the scope of the Directive.
- 1.4 In addition, an extension of the scope of the Directive to all public sector websites would be a necessary condition for the accumulation of the critical mass needed for the creation of a European market for accessible web services, and thereby for the creation of a globally competitive sector for web accessibility which potentially could provide additional job opportunities for people, with and without disabilities, in Europe.

- 1.5 Hence, the EESC strongly recommends the expansion of the scope of the Directive to gradually cover all public body websites in accordance with the imperatives of public order, public security, public health and personal data protection<sup>1</sup>. The EESC, furthermore, strongly recommends the European Commission to propose regulation which also puts the EU institutions under the obligations implied by the Directive in question.
- 1.6 Furthermore, the EESC strongly recommends a number of flanking measures, such as awareness-raising, web-accessibility training programmes, the appointment of web-accessibility coordinators in large public sector bodies, and the opportunity for citizens to report on the accessibility of public websites, in order to facilitate the implementation of the directive. The social partners should have a more proactive role to play in these areas.
- 1.7 The EESC recommends the European Commission to carefully assess the implications of the Directive for employment in both the public and private sectors, with a particular view to the net job effect, the creation of quality jobs, and potential jobs for persons with disabilities.
- 1.8 The EESC encourages the European Standardisation Organisations to adopt the relevant European standard, to which the Directive in question refers, without delay in order to facilitate the smooth implementation of the Directive. At the same time, implementation should not be delayed while this European standard is under adoption, as a fully adequate temporary legal arrangement is proposed as an integral part of the Directive by the European Commission.

## 2. **Background**

- 2.1 Web-accessibility is part and parcel of many political initiatives at European level: the European Disability Strategy 2010-2020 (ICT accessibility); the eGovernment Action Plan 2011-2015 (inclusive and accessible eGovernment services); and the Digital Agenda for Europe (the Commission proposes to ensure fully-accessible public sector websites by 2015).
- 2.2 Back in 2006, EU Member States also committed themselves to improving the accessibility of public websites in the so-called Riga Declaration. The Member States have so far not delivered on these commitments in a satisfactory way. This is an important part of the background to the proposal of the European Commission for the Directive in question.
- 2.3 The proposal for a Directive on the accessibility of public sector body websites aims to support the Member States in achieving their national commitments regarding web-accessibility, and thereby to support in particular the commitment of Member States to the provisions of the United Nations Convention on the Rights of Persons with Disabilities

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<sup>1</sup> (Article 8 of the Charter of Fundamental Rights);  
[OJ C 218, 23.7.2011, pp. 130-134](#);  
[OJ C 255, 22.9.2010, p. 98-102](#).

regarding websites of public sector institutions. Article 9 of the Convention obliges Member States, and the EU as such, to apply appropriate measures to ensure access for persons with disabilities, on an equal basis with others, to inter alia information and communication technologies, including the internet.

- 2.4 The lack of harmonised approaches to web-accessibility creates barriers in the internal market. As less than 10% of websites are accessible, the European market for web-accessibility could grow significantly and harmonised approaches could facilitate this by putting an end to the existing fragmentation and lack of confidence in the web-accessibility market.

Hence, web-accessibility is an area where the internal market could be put at the service of European citizens to a much larger extent than it is the case today. At the same time, legislation concerning this subject matter could facilitate the creation of a truly European market for web-accessibility, thereby opening up markets in Member States where legal uncertainty risk hinders web developers from other Member States in operating.

- 2.5 Ultimately, a harmonised approach to web-accessibility across the EU would bring down costs for web developer companies and consequently the costs for public bodies who procure services from these companies.
- 2.6 In addition, it is important to stress that public bodies, and many other institutions of great importance for citizens, provide essential information and services through websites. Hence, all citizens, including persons with disabilities, people with functional impairments, children, the elderly, etc., need to have access to these websites and their functionalities. This is as much about making technical adjustments (regarding the version of the text, the option of altering the font size or contrast, the possibility of accessing sites using other search engines and with the help of programs to assist access) as it is about aspects such as the clarity of the language used. The number of websites providing e-government services, and public sector websites in general, is growing rapidly. Access to information and services provided through websites will be important for the realisation of the fundamental rights of citizens in the future, including access to employment.
- 2.7 The proposal is also relevant in terms of facilitation of e-Inclusion, since web-accessibility is a tool used in the efforts to reach the goal of including people with disabilities in society and giving all citizens access to services provided through websites.
- 2.8 In the EESC's view, accessibility must be seen as an integral part of the principle of universal equality. Website accessibility should thus become an equality measure alongside certain other key conditions, including:

- widespread availability of infrastructure ensuring universal access to high-speed internet (broadband)<sup>2</sup>;
- access for all citizens to public or private computers (hardware);
- accessibility of software that is easy to understand and use for all sections of the population, including excluded population groups<sup>3</sup>.

### 3. **Approach taken by the proposal for a Directive**

- 3.1 The Directive aims at the approximation of the laws, regulations and administrative provisions of the Member States on the accessibility of public sector bodies' websites, by defining harmonised requirements.
- 3.2 Furthermore, the proposal lays down the technical provisions whereby Member States are to make accessible the content of certain types of websites of public sector bodies. The types of public sector websites concerned provide information and services of essential importance for public participation in the economy, including the labour market, and society at large, as well as the enjoyment by EU citizens of their rights. The categories of relevant websites are drawn from the 2001 eGovernment benchmarking exercise<sup>4</sup> and are listed in an annex to the Directive.

### 4. **Comments and recommendations**

#### 4.1 Scope

4.1.1 Article 1 defines the scope of the Directive by referring to its annex listing certain types of websites drawn from the 2001 eGovernment benchmarking exercise. The types of websites on this list are important websites. However, the list of websites concerned leaves out many services which are prerequisites for the inclusion of citizens in the economy and the society at large.

4.1.2 Examples of key sectors falling outside the scope of the Directive are:

- Child care
- Primary education
- Secondary education
- General and local elections

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2 [OJ C 318, 23.12.2006, pp. 222-228.](#)

3 [OJ C 318, 29.10.2011, pp. 9-18;](#)  
[OJ C 24, 28.1.2012, pp. 139-145;](#)  
[OJ C 175, 28.7.2009, pp. 8-12.](#)

4 [http://ec.europa.eu/digital-agenda/en/news/egovernment-indicators-benchmarking-eeurope.](http://ec.europa.eu/digital-agenda/en/news/egovernment-indicators-benchmarking-eeurope)

- Public transport
- Cultural activities.

The list of examples is not exhaustive. Public sector websites providing information and services within these key sectors are not explicitly covered by the Directive.

- 4.1.3 The European Commission refers to the so-called spill-over effect as the mechanism whereby the Directive would have an impact on public body websites which are not explicitly covered by the scope of the Directive.
- 4.1.4 The assumed rationale underlying this spill-over effect is that public sector bodies will make websites falling outside the scope of the Directive accessible at the same time as, or following, the ones explicitly covered, as a consequence of the fact that the process is already underway. A factor which could contribute to generating the spill-over effect is public procurement carried out according to EU legislation, whereby public procurers might be expected to have an obligation to refer to European standards on web-accessibility in their technical specifications. The contribution of this factor depends on the political will of EU decision-makers and the will and ability of public procurers to address web-accessibility.
- 4.1.5 However, the EESC is worried that the solidity of the causal links assumed to bring about this spill-over effect are weak. The EESC does not find that the mechanism has been demonstrated to work. As a consequence, the EESC welcomes the measure in the Directive whereby Member States are encouraged to expand the web-accessibility requirements to other websites than those explicitly mentioned in the annex to the Directive. Under present circumstances, the EESC remains worried about the adequacy of this measure.
- 4.1.6 The benchmarking study *Measuring Progress of eAccessibility in Europe (2006-2008)* showed a clear connection between the existence of legislation in Member States and the degree of accessibility of websites. Thus, the effect of legislation as such has been demonstrated.
- 4.1.7 The EESC is concerned that the European Commission, by defining the scope of the Directive on the basis of a benchmarking study carried out in 2001, is introducing a disconnect between the approach of the Directive and the situation faced by web developers, public bodies, and citizens, in a rapidly changing information and communication society. Member States have since then revised their strategies for the digitalisation of the public sector, and will continue to do so in the future.
- 4.1.8 The implication for citizens, who are dependent on web-accessibility, is that they will be facing a serious risk of being partly or fully excluded from benefitting from the services and information provided through websites that fall outside the relatively narrow scope of the Directive. The EESC feels that this would run counter to the principle of universal equality (Articles 20 and 21 of the Charter of Fundamental Rights).

- 4.1.9 The implication for public bodies is that they will face a policy environment with different mandatory legal requirements for different types of websites. This might risk making implementation of the Directive more complex than it needs to be. In order to reduce this complexity, the EESC recommends, as a minimum, that the text of the Directive explicitly spells out that the full website, on which a concerned service is provided, is covered by the scope of the Directive, and not only the service function in itself.
- 4.1.10 A further implication for the public sector as such in Member States would be that services which are inaccessible to some citizens will have to be provided to these persons in other ways thereby leading to unequal treatment of certain groups of citizens. This might involve increased costs for practical personal assistance to people with disabilities, costs for specialised transport solutions adapted to persons with disabilities, and assistance available to attend to e.g. older people, who come in person to the premises of the public body in question.
- 4.1.11 The implication for companies of the web-sector is that they risk continuing to be operating in a market which is fragmented along the lines of the different levels of requirements regarding web-accessibility. The number of public body websites subject to the consistent requirements of the Directive across the EU could remain low, and Member States might expand or limit this scope to varying degrees.
- 4.1.12 If the full potential from the creation of an internal market for accessible web services were not to be exploited, this would also impede the associated creation of jobs in the sector. This would be a lost opportunity in particular with regard to the potential for specialised jobs for persons with disabilities. A clear and comprehensive legal framework at European level is a necessary condition for a European web accessibility sector capable of competing at a global level, and thereby for the creation of additional employment in the EU.
- 4.1.13 On this basis, the EESC strongly recommends a reconsideration of the scope of the Directive. The EESC considers it appropriate to expand the scope to all public body websites providing services directly to citizens. Such an expansion could then be accompanied by extended deadlines for compliance with the requirements of the Directive as regards websites providing services to numerically limited groups, thereby introducing a gradual implementation of the Directive.
- 4.1.14 As a minimum, the EESC recommends an update of the list of services drawn from the 2001 benchmarking exercise with additional key services which now feature prominently in the digitalisation strategies of Member States. An additional consideration in the selection of such additional key services should be their potential contribution to the creation of an internal market for accessible web-services. The disadvantage of this approach would be the ongoing need for further updates of this list according to technological developments and the digitalisation of the public sector across the EU.

- 4.1.15 The EESC strongly recommends that the scope of the Directive explicitly covers versions of public websites designed to be accessed through mobile devices as well as features designed to facilitate mobile access in general. Mobile devices are gradually becoming the preferred user agents, and the Directive should take this into account. Despite the fact that the technical specifications, according to which the Directive is to be implemented, incorporate mobile devices, it would be an important signal to recognise this aspect, thereby enhancing the future relevancy of the Directive.
- 4.1.16 Furthermore, the EESC recommends that functions provided through websites, which are external to the website of the public sector body in question, e.g. by the use of web-links, be explicitly covered by the scope of the Directive. Such clarification would help to avoid legal uncertainty with regard to responsibility for the accessibility of a given service.
- 4.1.17 The EESC, furthermore, recommends the European Commission to propose regulation which will put EU institutions, including the EESC, who is willing to take a proactive and pioneering role, under the obligations implied by the Directive in question.
- 4.2 The use of standards and technology neutrality
- 4.2.1 The Directive includes a solution for presumption of conformity with harmonised standards for the websites concerned in order to facilitate compliance with the web-accessibility requirements. Using harmonised standards makes it possible to update relevant standards without necessarily needing to change EU or national legislation.
- 4.2.2 The Directive indicates in a recital that the Success Criteria and Requirements for Level AA conformance specified in the version 2.0 of the Web Content Accessibility Guidelines (WCAG 2.0) issued by the World Wide Web Consortium (W3C), are expected to be taken into account in the European standard resulting from Mandate 376 and subsequently in the harmonised standard that should be built upon the outcome of this work. These technology neutral specifications provide the basis for the requirements for web-accessibility as understood in the Directive.
- 4.2.3 The EESC compliments the European Commission on the choice of internationally recognised web-accessibility specifications as a reference for the proposed Directive. The EESC takes note of the fact that WCAG 2.0, level AA, is the reference point for web-accessibility, and will remain so in the foreseeable future. Consequently, the adoption and implementation of the Directive should not be delayed by the European standardisation process.
- 4.2.4 The EESC also compliments the European Commission on the choice to use harmonised standards, which would allow for the integration of future evolutions in the web-accessibility specifications, if technological or other developments make this necessary in order to maintain the level of accessibility envisaged by the Directive.



- 4.2.5 At the same time, it is essential that access to the relevant standards remains open and free of charge for all relevant stakeholders, and that the responsibility for their implementation and further development is not left solely to standardisation bodies and commercial players.
- 4.2.6 Technology neutrality is a prerequisite for working with web accessibility in an ICT environment which is changing rapidly. This allows for continuous innovation. Hence, the technology neutrality of WCAG 2.0 will contribute to the relevancy of the Directive in the future.
- 4.2.7 Moreover, the choice of internationally recognised specifications increases the probability that web-developers operating across global regions, and not only in the EU, will be working under converging requirements regarding web-accessibility, thereby simplifying their implementation within the web solutions provided. This is an important aspect to consider in a market which is international and global by nature. It is important that users benefit too from common criteria in terms of equal opportunities for access and participation, or from the presentation and installation of other structural elements that could for instance make website navigation much easier.
- 4.3 Awareness-raising and training
- 4.3.1 In Article 6, Member States are encouraged to introduce measures which can contribute to awareness-raising, the establishment of cooperation arrangements regarding web-accessibility, and growth of the web-accessibility market.
- 4.3.2 The EESC recommends including a legal obligation for Member States to raise awareness of web-accessibility among public bodies, web-developers, and other stakeholders. Knowledge about the issue, and its importance, is a prerequisite for the effective implementation of the Directive.
- 4.3.3 The EESC further recommends introducing a legal obligation for Member States to establish training programmes to the relevant staff of public bodies, through consultation with the social partners, in order to further facilitate the concrete implementation of the web-accessibility requirements. The added value of the coordination and quality assurance of such programmes at a European level would be significant and could capitalise on existing good practices.
- 4.3.4 The EESC strongly recommends that the social partners be fully involved in the development and implementation of the training and awareness-raising programmes. They could play an important role in communicating ideas and concerns of the staff and managers involved in ensuring web-accessibility on a daily basis. Moreover, the social partners could assist in putting the issue of web-accessibility on the agenda.

4.3.5 Both awareness-raising and training of professionals would be necessary, but not sufficient, instruments with a view to ensuring that the so-called spill-over mechanism envisaged by the Commission works.

#### 4.4 Monitoring

4.4.1 In the light of regular updates of web content, the accessibility of websites should be continuously monitored. In Article 7 of the Directive, Member States are requested to monitor the public sector bodies' websites concerned, using the methodology established by the European Commission in accordance with the procedure laid down in the Directive. Member States are to report annually on the results of such monitoring, including on the possible extension of the list of types of websites concerned, as well as on any additional measures taken in the area of accessibility of public websites. The Commission should, in the EESC's view, take account of the fact that the Member States may not all be in a position to implement the Directive and include all citizens by the end of 2015. The Committee advocates developing European standards; the European Parliament will no doubt be careful to ensure that the delegated acts do not lay down technical requirements that have harmful political consequences for the European public.

4.4.2 The EESC welcomes the European Commission's recognition of the need for continuous monitoring of the accessibility of public body websites.

4.4.3 The EESC recommends the introduction of an obligation for Member States to make public to citizens, in accessible formats, the results of such continuous monitoring, including possible general conclusions drawn by relevant authorities on the basis of the monitoring.

4.4.4 The EESC also strongly recommends the introduction of an obligation for Member States to establish mechanisms whereby citizens, and representative organisations, can report on the accessibility and inaccessibility of public body websites. Information provided through such mechanisms could feed into the general monitoring efforts.

4.4.5 The EESC asks the European Commission to consider introducing an obligation for large public sector bodies to appoint a web accessibility coordinator who can oversee the implementation of the requirements of the Directive and of related requirements. Experience shows that organisational commitment is important for the implementation of accessibility requirements.

#### 4.5 Consistency in the policy environment

4.5.1 In light of the fact that European legislation on digital ID solutions is being adopted and that European legislation concerning accessibility for persons with disabilities in other sectors of society, the so-called European Accessibility Act, is under consideration, it is important to ensure that public sector bodies and web developers alike will be facing a consistent policy

environment across sectors. The relevancy of this point is further underlined by the fact that the package on public procurement, currently being adopted at EU level, is expected to contain provisions on accessibility for persons with disabilities as well.

4.5.2 The EESC, therefore, strongly recommends that consistency between the requirements of the Directive under consideration in this opinion, and of other legislative proposals touching upon web-accessibility, is ensured by means of a thorough legal and technical analysis.

#### 4.6 Innovation and new solutions

4.6.1 The availability, functionality, and use of ICT solutions change rapidly over time. A clear example of this is the increasing number of services offered through applications for smart phones and tablets, also by public sector bodies.

4.6.2 The EESC recommends that smart phone and tablet applications, to the extent that their functionality is integrated with services provided through public body websites, be explicitly covered by the scope of the Directive, in light of the fact that such applications are already part of the interaction between citizens and public bodies.

4.6.3 It should be pointed out that access to websites is directly linked to people's right to access information freely and participate as citizens in political life. One example of best practice that should be implemented in the European Union is the addition of an easily accessible "public participation" heading on the websites of all public bodies.

Brussels, 22 May 2013.

The President  
of the  
European Economic and Social Committee

Henri Malosse

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