

ESF+ Proposal- first reaction from the European Disability Forum

Contents

ESF+ Proposal- first reaction from the European Disability Forum.....	1
Key messages.....	1
Introduction.....	2
PROPOSALS OF ESIF REGULATIONS 2021-2027	4
COMMON PROVISIONS REGULATION PROPOSAL.....	4
The new Common Provisions Regulation Proposal includes the following direct or indirect references to persons with disabilities	4
What has been omitted from the current proposal- which was previously included	7
Consequences of these omissions from the proposals	8
ESF+ REGULATION PROPOSAL.....	9
Direct or indirect references concerning persons with disabilities.....	9
What has been excluded from the ESF+ Proposals, which was included in the current Regulation 1304/2013 concerning persons with disabilities and accessibility	12
Consequences of this omission	13
EDF recommendations	13
COHESION POLICY	13
COMMON PROVISIONS REGULATION PROPOSAL.....	13
ESF+ REGULATION PROPOSAL.....	15

Key messages

1. The European Disability forum welcomes the Commissions ESF+ proposal acknowledging a number of strong points:
 - a. Specific actions to support to the transition from institutional to Community based care, its emphasis on access to quality inclusive education and training, active inclusion and equal opportunities to employability, promotion of the rights of persons with disabilities in line with the UN Convention on the Rights of Persons with Disabilities,
 - b. Measures to ensure that funding does not create segregation of persons with disabilities
 - c. Strengthening of the role of partners in monitoring

2. Since the EU and all of its members have now ratified the UN CRPD, references to the CRPD need to be maintained and strengthened across all regulations and included in the legal basis of the ESF+ regulation.
3. Based on the CRPD, specific attention should be given to the explicit inclusion of persons with disabilities in all actions targeting most marginalized people in relation to education, employment, training/lifelong learning and skills development. Furthermore, in line with the CRPD, organisations of persons with disabilities should be explicitly included in all structured dialogue to monitor the use of funds, along with Civil Society Organisations. The ESF+ should continue to support the transition from institutional to community based support for persons with disabilities.
4. No ESIF, ESF+ included, should be invested in inaccessible infrastructure, products or services and therefore the accessibility provisions should be strengthened
 - a. in Common Provisions Regulation proposal as follows:
 - i. Article 7 of the existing regulation 1303/2013 should be reinstated as the strongest tool to ensure non-discrimination and accessibility
 - ii. Article 67 of the regulation proposal should include a specific reference to accessibility for persons with disabilities as it is already done with gender equality and sustainable development
 - b. in ESF+ Regulation proposal as follows:
 - i. Article 6 should include a specific reference to accessibility for persons with disabilities.
5. Regarding Article 8 on Partnership, inclusive accessible and meaningful involvement of persons with disabilities and their representative organisation's should be guaranteed. It is stated that member states should allocate adequate resources to capacity building- this should be a minimum of 2% earmarked to ensure it can be implemented effectively.
6. Management of ESF+ should be simplified, not only for Managing Authorities and for the EC, but also for partners and civil society; co-financing amounts should not be changed

Introduction

The [European Disability Forum \(EDF\)](http://www.edf-feph.org)¹ is an independent Non-Governmental Organisation (NGO) that represents the interests of 80 million Europeans with disabilities. EDF is a unique platform which brings together representative organisations of persons with disabilities from across Europe. EDF is run by persons with disabilities and their families. We are a strong, united voice of persons with disabilities in Europe.

In 2013, EDF welcomed the European Structural and Investment Funds (ESI Funds) regulations for the period 2014-2020 as being in line with the EU Charter of Fundamental

¹ www.edf-feph.org

Rights as well as the United Nation Convention on the Rights of Persons with Disabilities (CRPD)².

The ESI Funds, over the decades, have improved the situation of persons with disabilities by financing accessibility, fight against poverty and social exclusion and increasing education and employment opportunities, across the European Union (EU). They have financed key services in the community reducing disparities and promoting solidarity.

The aim of this paper is to contribute to the development of the future regulations of the ESF + and the related policy documents and to bring the perspective and experience of persons with disabilities.

The current Common Provisions Regulation³ (CPR), which regulates the use of all the ESI Funds as well as the regulations specific for each Fund⁴ for the period 2014-2020, introduced strong positive obligations including:

- Partnership with civil society organisations as a horizontal principle (article 5 CPR), and the code of conduct on partnership requiring involvement of civil society organisations in all phases of the use of the Funds. For the first time, organisations of persons with disabilities were put on an equal footing with regional authorities and social partners, with voting rights in the monitoring committees.
- Capacity building of civil society organisations to be financed by the European Social Fund (ESF) thanks to article 6 ESF regulation 1304/2013 which encourages the adequate participation of, and access by, non-governmental organisations in actions supported by the ESF, in particular in the fields of social inclusion, gender equality and equal opportunities.
- Horizontal principle on equality between women and men and non-discrimination, (article 7 CPR) including accessibility for persons with disabilities as key criteria to respect in the use of the Funds.
- Ex-ante conditionalities were introduced as prerequisite countries needed to fulfil in order to receive the Funds. The general ex-ante conditionality on disability and the thematic ex-ante conditionality on fight against poverty and social exclusion have positively changed ways countries allocated ESI Funds.
- Accessibility (article 7 and Ex-ante conditionality 3. "Disability" CPR) for persons with disabilities included as an obligation in all the phases of the use of the funds: planning, implementation, communication, monitoring, reporting and evaluation. This means that all articles regulating each of these phases include obligation for the authorities managing the Funds to implement accessibility for persons with disabilities and to provide information on how they have taken it into account.

Thanks to these provisions, and in particular to the partnership principle, as referred to in article 5 Common Provision Regulation EU 1303/2013, the EU is a good example, worldwide, for meaningful involvement of organisations of persons with disabilities and other civil society

² <https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities.html>

³ **Regulation (EU) No 1303/2013** <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32013R1303>

⁴ The European Structural and Investment Funds include European Social Fund, European Regional Development Fund, Cohesion Fund, European Agricultural Fund for Rural Development, European Maritime and Fisheries Fund.

organisations. In international processes such as implementation of the Sustainable Development Goals and the implementation of the CRPD, the EU is leading the way in this regard.

At the time the current European budget was adopted, not all EU member states had ratified the CRPD, but now this is the case. Therefore, the provisions related to the CRPD need to be further strengthened to ensure that no European Funds are invested in barriers and segregation for persons with disabilities and European funds need to be invested in accessibility and social inclusion for persons with disabilities in line with CRPD's scope.

PROPOSALS OF ESIF REGULATIONS 2021-2027

COMMON PROVISIONS REGULATION PROPOSAL

(Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL laying down common provisions on the European Regional Development Fund, the European Social Fund Plus, the Cohesion Fund, and the European Maritime and Fisheries Fund and financial rules for those and for the Asylum and Migration Fund, the Internal Security Fund and the Border Management and Visa Instrument).

The new Common Provisions Regulation Proposal includes the following direct or indirect references to persons with disabilities

- (5) *Horizontal principles as set out in Article 3 of the Treaty on the European Union ('TEU') and in Article 10 of the TFEU, including principles of subsidiarity and proportionality as set out in Article 5 of the TEU should be respected in the implementation of the Funds, taking into account the Charter of Fundamental Rights of the European Union. **Member States should also respect the obligations of the UN Convention on the Rights of Persons with Disabilities and ensure accessibility in line with its article 9 and in accordance with the Union law harmonising accessibility requirements for products and services. Member States and the Commission should aim at eliminating inequalities and at promoting equality between men and women and integrating the gender perspective, as well as at combating discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation. The Funds should not support actions that contribute to any form of segregation.[...]***
- *Article 6 Partnership and multi-level governance*
 1. *Each Member State shall organise a partnership with the competent regional and local authorities. That partnership shall include at least the following partners: [...] (c) relevant bodies representing civil society, environmental partners, and bodies responsible for promoting social inclusion, fundamental rights, **rights of persons with disabilities**, gender equality and **non-discrimination**.*
 2. *In accordance with the multi-level governance principle, the Member State shall involve those partners in the preparation of Partnership Agreements and throughout the preparation and implementation of programmes including through participation in monitoring committees in accordance with Article 34. [...]*
- *Article 67 Selection of operations by the managing authority*

1. For the selection of operations, the managing authority shall establish and apply criteria and procedures which are non-discriminatory, transparent, ensure gender equality and take account of the Charter of Fundamental Rights of the European Union and the principle of sustainable development and of the Union policy on the environment in accordance with Articles 11 and 191(1) of the TFEU. The criteria and procedures shall ensure the prioritisation of operations to be selected with a view to maximise the contribution of Union funding to the achievement of the objectives of the programme. [...]

3. In selecting operations, the managing authority shall: [...] **(b) ensure that selected operations are consistent with the corresponding strategies and planning documents established for the fulfilment of enabling conditions;** (c) [...]

- *ANNEX III - Horizontal enabling conditions –Article 11(1) Applicable to all specific objectives*

Name of enabling conditions	Fulfilment criteria
Effective application and implementation of the EU Charter of Fundamental Rights	Effective mechanisms are in place to ensure compliance with the EU Charter of Fundamental Rights which include: 1. Arrangements to ensure verification of compliance of operations supported by the Funds with the Charter of Fundamental Rights. 2. Reporting arrangements to the monitoring committee on the compliance with the Charter of the operations supported by the Funds
Implementation and application of the United Nations Convention on the rights of persons with disabilities (UNCPRD) in accordance with Council Decision 2010/48/EC	A national framework for implementing the UNCPRD is in place that includes: 1. Objectives with measurable goals, data collection and monitoring mechanism. 2. Arrangements to ensure that the accessibility policy, legislation and standards are properly reflected in the preparation and implementation of the programmes

- *ANNEX IV- Thematic enabling conditions applicable to ERDF, ESF+ and the Cohesion Fund – Article 11(1)*

Enabling condition -Policy objective 4: “A more social Europe by implementing the European Pillar of Social Rights”

- Specific objective (SO) ERDF: 4.1 enhancing the effectiveness of labour markets and access to quality employment through developing infrastructure
S.O.ESF: 4.1.3 Promoting a better work/life balance including access to childcare, a healthy and well-adapted working environment addressing health risks, adaptation of workers to change and healthy and active ageing;

Fulfillment criteria for the enabling condition

A national strategic policy framework for gender equality is in place that includes:

[...]2. Measures to address gender gaps in employment, pay and pensions, and **promote work-life balance**, including through improving access to early childhood education and care, with targets

[...]

4. Arrangements for ensuring that its design, implementation, monitoring and review is conducted **in close cooperation with equality bodies, social partners and relevant civil society organizations**.

- S.O. ERDF: 4.2 improving access to inclusive and quality services in education, training and lifelong learning through developing infrastructure;
S.O. ESF: 4.2.1 Improving the quality, effectiveness and labour market relevance of education and training systems; 4.2.2 Promoting flexible upskilling and reskilling opportunities for all, including by facilitating career transitions and promoting professional mobility; 4.2.3 Promoting equal access, in particular for disadvantaged groups, to quality and inclusive education and training, from early childhood education and care through general and vocational education and training and to tertiary level;

Fulfillment criteria for the enabling condition

A national and/or regional strategic policy framework for the education and training system is in place and includes:

1. Evidence-based systems for skills anticipation and forecasting as well as graduate tracking mechanisms and services for quality and effective guidance for learners of all ages
2. Measures to ensure **equal access to, participation in and completion of quality, relevant and inclusive education** and training and acquisition of key competences at all levels, including higher education
3. Coordination mechanism across all levels of education and training, including tertiary education, and clear assignment of responsibilities between the relevant national and/or regional bodies
4. Arrangements for monitoring, evaluation and review of the strategic policy framework
5. Measures to target low-skilled, low-qualified adults and those with disadvantaged socio-economic backgrounds and upskilling pathways
6. Measures to support teachers, trainers and academic staff as regards appropriate learning methods, assessment and validation of key competences
7. Measures to promote mobility of learners and staff and transnational collaboration of education and training providers, including through recognition of learning outcomes and qualifications

- S.O.ERDF: 4.3 increasing the socio-economic integration of marginalised communities, migrants and disadvantaged groups, through integrated measures including housing and social services
S.O.ESF: 4.3.1 Promoting active inclusion including with a view to promoting equal opportunities and active participation, and improving employability;

Fulfillment criteria for the enabling condition

A national strategic policy framework for social inclusion and poverty reduction is in place that includes:

1. Evidence-based diagnosis of poverty and social exclusion including child poverty, homelessness, spatial and educational segregation, limited access to essential services and infrastructure, and the **specific needs of vulnerable people**
 2. Measures to prevent and combat segregation in all fields, including through providing adequate income support, inclusive labour markets and **access to quality services for vulnerable people**, including migrants
 3. **Measures for the shift from institutional to community-based care**
 4. Arrangements for ensuring that its design, implementation, monitoring and review is conducted **in close cooperation with social partners and relevant civil society organisations**
- S.O.ERDF: 4.4 ensuring equal access to health care through developing infrastructure, including primary care
S.O.EF: 4.3.4 Enhancing the equal and timely access to quality, sustainable and affordable services; improving accessibility, effectiveness and resilience of healthcare systems; improving access to long-term care services

Fulfillment criteria for the enabling condition

A national or regional strategic policy framework for health is in place that contains:

1. Mapping of health and long-term care needs, including in terms of medical staff, to ensure sustainable and coordinated measures
2. Measures to ensure the efficiency, sustainability, accessibility and affordability to health and long-term care services, including specific focus on individuals excluded from the health and long-term care systems
3. Measures to **promote community based services, including prevention and primary care, home-care and community-based services**

What has been omitted from the current proposal- which was previously included

In the new Common Provisions Regulation Proposal, the following provisions of the Regulation 1303/2013 concerning persons with disabilities are no longer included

- *Article 7- Promotion of equality between men and women and non-discrimination*
*[...]The Member States and the Commission shall take appropriate steps to prevent any discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation during the preparation and implementation of programmes. **In particular, accessibility for persons with disabilities shall be taken into account throughout the preparation and implementation of programmes.***
- **ANNEX I- 5. HORIZONTAL PRINCIPLES REFERRED TO IN ARTICLES 5, 7 AND 8 AND CROSS-CUTTING POLICY OBJECTIVES**

5.3 Promotion of equality between men and women and non-discrimination

*2.Member States shall ensure, in accordance with Articles 5 and 7, the participation of the relevant bodies responsible for promoting gender equality and non-discrimination in the partnership, and ensure adequate structures in accordance with national practices to advise on gender equality, **non-discrimination and accessibility** in order to provide the necessary expertise in the preparation, monitoring and evaluation of the ESI Funds.[...]*

4. Member States shall address, in an appropriate manner, the needs of disadvantaged groups in order to allow them to better integrate into the labour market, and thereby facilitate their full participation in society.

5.4 Accessibility

1. Member States and the Commission shall, in accordance with Article 7, take appropriate steps to prevent any discrimination based on disability. **Managing authorities shall ensure by means of action throughout programme lifecycles that all products, goods, services and infrastructures that are open or provided to the public and are co-financed by the ESI Funds are accessible to all citizens including those with disabilities** in accordance with applicable law, thereby contributing to a barrier-free environment for persons with disabilities and the elderly. **In particular, accessibility to the physical environment, transport, ICT in order to promote inclusion of disadvantaged groups, including persons with disabilities, shall be ensured. Actions to be undertaken may include directing investments towards accessibility in existing buildings and established services.**

- The general ex ante conditionalities “1. Anti discrimination” and “3. Disability” (please see ANNEX XI- Ex ante conditionalities, PART II: General ex-ante conditionalities)

Consequences of these omissions from the proposals

EDF is convinced that, throughout the current programming period, in the Regulation 1303/2013 the provision of Article 7 - *Promoting equality between men and women and non-discrimination*, and particularly the point mentioning that “accessibility for persons with disabilities shall be taken into account throughout the preparation and implementation of programmes”, in conjunction with the provision of Annex I, paragraph 5.4- Accessibility⁵ has made the major difference in favor of persons with disabilities. In some countries as in Greece, it has even led to the application of a specific ON / OFF eligibility criterion for accessibility in line with article 9 of UNCRPD, applied to all Operational Programmes even in areas for which there is no relevant national or European legislation (e.g. services). The result was that no action could be selected for funding if it did not fulfill that accessibility criterion. Considering that the CRPD is ratified in the EU and all of its member states, it is critical that this is reflected in the regulation.

General ex-ante conditionality “3 – Disability” played, also, a key role in : (a) establishing a continuing consultation of the Managing Authorities with the representative disabled persons’ organizations, thereby enhancing partnership and multi-level governance; (b) raising awareness of all the staff of Managing Authorities on disability and accessibility issues; and (c) speeding up the process of establishing the Monitoring Mechanism for the implementation of the UNCRPD.

Following the above mentioned, the practical importance of the provisions of Article 7 - *Promoting equality between men and women and non-discrimination* (in conjunction with the provision of Annex I, para 5.4 - Accessibility) and its direct connection with the use of ESIF for

⁵ Annex I, paragraph 5.4- Accessibility : “Managing authorities shall ensure by means of action throughout programme lifecycles that all products, goods, services and infrastructures that are open or provided to the public and are co-financed by the ESI Funds are accessible to all citizens including those with disabilities ”

the benefit of disabled citizens is clear versus the conditionality 3 - *Disability*, which focuses on the existence of administrative capacity for the implementation of the UNCRPD.

In the new Common Provisions Regulation Proposal, the general conditionality 3. *Disability* is replaced by the horizontal and applicable to all thematic objectives enabling condition "*Implementation and application of the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) in accordance with Council Decision 2010/48 / EC*" (see Annex III). The new enabling condition is obviously a further development of the previous conditionality 3. *Disability*. It is also applying as fulfillment criteria a national framework for the implementation of the UNCRPD including measurable objectives, a data collection and monitoring mechanism and arrangements to ensure that the accessibility policy, legislation and standards are properly reflected in the preparation and implementation of the operational programmes. Of course, the wording of the new enabling condition could lead again to a specific accessibility criterion as one of the required arrangements. But this wording, **as it is linked to existing legislation and standards on accessibility (as mentioned also in point 5 of the introduction), it could create problems -both at national and European level- in relation to its scope, which could be more limited than the scope of the universal accessibility described in the UNCRPD (Article 9: Accessibility)**. Here it should be noted once again that each Member State and the EU as well are obliged to fully apply the UNCRPD after its ratification both at national and European level.

Accordingly, the new enabling condition "*Effective application and implementation of the EU Charter of Fundamental Rights*" is expected to replace the contribution of general ex-ante conditionality 1 - *Anti discrimination*, since among others Article 21 (1) - *Non-Discrimination* of the EU Charter of Fundamental Rights explicitly prohibits the discrimination based on disability.

It is also noted as a positive addition, the inclusion among the fulfillment criteria of the thematic enabling condition "4. *A more social Europe by implementing the European Pillar of Social Rights*" of specific references to the corresponding national strategies and measures for: work-life balance (therefore, for mothers / foster mothers of persons with disabilities), "inclusive education", de-institutionalization, access to all in community-based health services.

ESF+ REGULATION PROPOSAL

Direct or indirect references concerning persons with disabilities

- (3) *The Council of [...] adopted revised guidelines for the employment policies of the Member States to align the text with the principles of the European Pillar of Social Rights, with a view to improving Europe's competitiveness and making it a better place to invest, create jobs and foster social cohesion. In order to ensure the full alignment of the ESF+ with the objectives of these guidelines, particularly as regards employment, education, training and **the fight against social exclusion, poverty and discrimination**, the ESF+ should support Member States, [...]*
- (15) *Support through the ESF+ should be used to promote **equal access for all, in particular for disadvantaged groups**, to quality, non-segregated and inclusive education and training, from early childhood education and care through general and vocational education and training and to tertiary level, as well as adult education and learning, thereby fostering permeability between education and training sectors, preventing early school leaving, improving health literacy, reinforcing links with non-formal and informal learning and facilitating **learning mobility for all**. Synergies with*

the Erasmus programme, notably to facilitate the participation of **disadvantaged learners** in learning mobility, should be supported within this context.

- (16) The ESF+ should promote **flexible upskilling and reskilling opportunities for all**, notably digital skills and key enabling technologies, with a view to providing people with skills adjusted to digitalisation, technological change, innovation and social and economic change, facilitating career transitions, mobility and supporting in particular low-skilled and/or poorly qualified adults, in line with the Skills Agenda for Europe.
- (18) The ESF+ should support Member States' efforts to tackle poverty with a view to breaking the cycle of **disadvantage across generations** and **promote social inclusion by ensuring equal opportunities for all, tackling discrimination and addressing health inequalities**. This implies mobilising a range of policies targeting the most disadvantaged people regardless of their age, including children, marginalised communities such as the Roma, and the working poor. The ESF+ should promote the active inclusion of people far from the labour market with a view to ensuring their socio-economic integration. The ESF+ should be also used to enhance timely and equal access to affordable, sustainable and high quality services such as healthcare and long-term care, in particular family and community-based care services. The ESF+ should contribute to the modernisation of social protection systems with a view in particular to promoting their accessibility.
- (26) **Efficient and effective implementation of actions supported by the ESF+ depends on good governance and partnership between all actors at the relevant territorial levels and the socio-economic actors, in particular the social partners and civil society**. It is therefore essential that **Member States encourage the participation of social partners and civil society in the implementation of the ESF+ under shared management**.
- (28) The Member States and the Commission should ensure that ESF+ contributes to the promotion of equality between women and men [...] **They should also ensure that the ESF+ promotes equal opportunities for all, without discrimination in accordance with Article 10 TFEU and promotes the inclusion in society of persons with disabilities on equal basis with others and contributes to the implementation of the United Nations Convention on the Rights of Persons with Disabilities**. These principles should be taken into account in all dimensions and in all stages of the preparation, monitoring, implementation and evaluation of programmes, in a timely and consistent manner while ensuring that specific actions are taken to promote gender equality and equal opportunities. The ESF+ should also promote the transition from residential/institutional care to family and community-based care, in particular for those who face multiple discrimination. **The ESF+ should not support any action that contributes to segregation or to social exclusion**. Regulation (EU) No [future CPR] provides that rules on eligibility of expenditure are to be established at national level, with certain exceptions for which it is necessary to lay down specific provisions with regard to the ESF+ strand under shared management.
- (33) Lack of access to finance for microenterprises, social economy and social enterprises is one of the main obstacles to business creation, especially among people furthest from the labour market. The ESF+ Regulation lays down provisions in order to create a market eco-system to increase the supply of and access to finance for social enterprises as well as to meet demand from those who need it most, and in particular the unemployed, women and **vulnerable people** who wish to start up or develop a microenterprise. This objective will also be addressed through financial instruments

and budgetary guarantee under the social investment and skills policy window of the Invest EU Fund

- (37) Evidence and the common values and principles in European Union Health Systems as set out in the Council Conclusions of 2 June 2006 should support the decision-making processes for planning and managing innovative, efficient and resilient health systems, **promoting tools for ensuring universal access to quality healthcare**, and the voluntary wider scale implementation of best practices.
- Article 3 - General objectives and methods of implementation

The ESF+ aims to support Member States to achieve high employment levels, fair social protection and a skilled and resilient workforce ready for the future world of work, in line with the principles set out in the European Pillar of Social Rights proclaimed by the European Parliament, the Council and the Commission on 17 November 2017.

The ESF+ shall support, complement and add value to the policies of the Member States to ensure equal opportunities, access to the labour market, fair working conditions, social protection and inclusion, and a high level of human health protection. [...]

- Article 4 - Specific objectives

1. The ESF+ shall support the following specific objectives in the policy areas of employment, education, social inclusion and health and thereby also contributing to the policy objective for “A more social Europe - Implementing the European Pillar of Social Rights” set out in Article [4] of the [future CPR]:

(i) improving access to employment of all jobseekers, in particular youth and **long-term unemployed, and of inactive people**, promoting self-employment and the social economy;

[...]

(v) **promoting equal access to and completion of, quality and inclusive education and training, in particular for disadvantaged groups**, from early childhood education and care through general and vocational education and training, and to tertiary level, as well as adult education and learning, including **facilitating learning mobility for all**;

(vi) promoting lifelong learning, notably **flexible upskilling and reskilling opportunities for all** taking into account digital skills, better anticipating change and new skills requirements based on labour market needs, facilitating career transitions and promoting professional mobility;

(vii) **fostering active inclusion with a view to promoting equal opportunities and active participation, and improving employability**; [...]

(x) **promoting social integration of people at risk of poverty or social exclusion**, including the most deprived and children;

[...]

- Article 6 - Equality between men and women and equal opportunities, and non-discrimination

1. All programmes implemented under the ESF+ strand under shared management, as well as the operations supported by the Employment and Social Innovation and Health strands shall ensure equality between men and women throughout their preparation, implementation, monitoring and evaluation. **They shall also promote equal opportunities for all, without discrimination based on sex, racial or ethnic origin,**

religion or belief, **disability**, age or sexual orientation **throughout their preparation, implementation, monitoring and evaluation.**

2. The Member States and the Commission shall also support specific targeted actions to promote the principles referred to in paragraph 1 within any of the objectives of the ESF+, including the transition from residential/institutional care to family and community-based care.

- Article 8 - Partnership

1. Each Member State shall ensure adequate participation of social partners and civil society organisations in the delivery of employment, education and social inclusion policies supported by the ESF+ strand under shared management.

2. Member States shall allocate an appropriate amount of ESF+ resources under shared management in each programme for the capacity building of social partners and civil society organisations.

- Article 23 - Operational objectives

The Employment and Social Innovation strand has the following operational objectives:

[...]

d) to provide specific support services to employers and job-seekers with a view to the development of integrated European labour markets, ranging from pre-recruitment preparation to post-placement assistance to fill vacancies in certain sectors, professions, countries, border regions or for particular groups (e.g. vulnerable people);

e) to support the development of the market eco-system related to the provision of microfinance for micro-enterprises in start-up and development phases, in particular those that employ vulnerable people;

[...]

What has been excluded from the ESF+ Proposals, which was included in the current Regulation 1304/2013 concerning persons with disabilities and accessibility

- (19) In accordance with Article 10 TFEU, the implementation of the priorities financed by the ESF should contribute to combating discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation by paying particular attention to those facing multiple discrimination. Discrimination on the ground of sex should be interpreted in a broad sense so as to cover other gender-related aspects in line with the case law of the Court of Justice of the European Union. The implementation of the priorities financed by the ESF should also contribute to promoting equal opportunities. **The ESF should support the fulfillment of the Union's obligation under the UN Convention on the Rights of Persons with Disabilities with regard inter alia to education, work, employment and accessibility.** The ESF should also promote the transition from institutional to community-based care. The ESF should not support any action that contributes to segregation or to social exclusion.

- Article 8- **Promotion of equal opportunities and non-discrimination**

The Member States and the Commission shall promote equal opportunities for all, without discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation through mainstreaming the principle of non-discrimination, as referred to in Article 7 of Regulation (EU) No 1303/2013. Through the ESF, the

*Member States and the Commission shall also support specific actions within any of the investment priorities referred to in Article 3, and in particular Article 3(1)(b)(iii) of this Regulation. **Such actions shall aim to combat all forms of discrimination as well as to improve accessibility for persons with disabilities, with a view to improving integration into employment, education and training, thereby enhancing social inclusion, reducing inequalities in terms of educational attainment and health status, and facilitating the transition from institutional to community-based care, in particular for those who face multiple discrimination.***

Consequences of this omission

Although the provisions of the ESF + Regulation Proposal meet the requirements for non-discrimination based on disability, equal opportunities for persons with disabilities and other vulnerable groups and de-institutionalization, all references of the previous Regulation to the obligation to implement accessibility to persons with disabilities to all funded actions have been removed from it. Taking into account that accessibility concerns not only infrastructure but also services (that are mainly funded by the ESF+), procedures and goods, there is a clear need to include in the ESF+ Regulation a clear reference to accessibility as it was done in 1304/2013 current Regulation. As it is well known, accessibility is the "key", and one of the essential prerequisites to ensure the equal opportunities for all which are among the main goals of the ESF+.

EDF recommendations

COHESION POLICY

1. Increased to 30% of ESF+ funding for promoting the social and economic cohesion and inclusion (article 7 (3),
2. the development of reliable indicators, both qualitative and quantitative, to monitor the use of funds as well their impact on the lives of persons with disabilities and their families,
3. the development by the European Commission of a mechanism to monitor the implementation of disability-related provisions, including non-discrimination, accessibility and participation of organisations of persons with disabilities throughout the planning, implementation and evaluation of operational programmes.

COMMON PROVISIONS REGULATION PROPOSAL

1. Restoring of Article 7 - *Promoting equality between men and women and non-discrimination* of the Regulation 1303/2013 in the new Common Provisions Regulation proposal.
2. Amendment of Point (5) in the introduction of the Regulation Proposal as follows (see text in bold) in order to ensure the same scope of accessibility as defined in UNCRPD:

(5) Horizontal principles as set out in Article 3 of the Treaty on the European Union ('TEU') and in Article 10 of the TFEU, including principles of subsidiarity and proportionality as set out in Article 5 of the TEU should be respected in the implementation of the Funds, taking into account the Charter of Fundamental Rights of the European Union. Member States should also respect the obligations of the UN Convention on the Rights of Persons with Disabilities and

ensure accessibility in line with its article 9 ~~and in accordance with the Union law harmonising accessibility requirements for products and services.~~ Member States and the Commission should aim at eliminating inequalities and at promoting equality between men and women and integrating the gender perspective, as well as at combating discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation. The Funds should not support actions that contribute to any form of segregation.

3. Addition of article 67 of Regulation Proposal as follows (see text in bold):

Article 67 Selection of operations by the managing authority

1. For the selection of operations, the managing authority shall establish and apply criteria and procedures which are non-discriminatory, transparent, ensure gender equality, **ensure accessibility to persons with disabilities** and take account of the Charter of Fundamental Rights of the European Union and the principle of sustainable development and of the Union policy on the environment in accordance with Articles 11 and 191(1) of the TFEU. The criteria and procedures shall ensure the prioritisation of operations to be selected with a view to maximise the contribution of Union funding to the achievement of the objectives of the programme. [...]

4. In ESI Funds, accessibility has to be defined in line with UNCRPD article 9. No limitation of its scope arising from national or European legislation is acceptable. The fulfillment criteria of the enabling condition concerning the UNCRPD implementation must be formatted as follows (see text in bold):

Name of enabling conditions	Fulfilment criteria
Implementation and application of the United Nations Convention on the rights of persons with disabilities (UNCRPD) in accordance with Council Decision 2010/48/EC	<p>A national framework for implementing the UNCRPD is in place that includes:</p> <ol style="list-style-type: none"> 1. Objectives with measurable goals, data collection and monitoring mechanism. 2. Arrangements to ensure that the accessibility policy, legislation and standards are properly reflected in the preparation and implementation of the programmes in line with the provisions of the UNCRPD. 3. Reporting arrangements to the monitoring committee on the compliance of the operations supported by the Funds with the UNCRPD.

5. Including a clear reference to accessibility to persons with disabilities in Article 25 - *Community-led local development* of the General Regulation Proposal to meet the

provision of the UNCRPD for accessible infrastructures and services in both urban and rural areas, as it is mentioned here below (see text in bold):

Article 25 -Community-led local development

[...]

2. The Member State shall ensure that community-led local development is:

[...]

(d) supportive of networking, innovative features in the local context and, where appropriate, cooperation with other territorial actors.

(e) supportive of implementing infrastructure and services accessible to persons with disabilities

ESF+ REGULATION PROPOSAL

1. *The addition of this text to the legal basis- (see text in bold)*

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 46(d), Article 149, Article 153(2)(a), Article 164, Article 168(5), Article 175(3) and Article 349 thereof,

Having regard to the UN Convention on the Rights of Persons with Disabilities to which the EU and all its member states are state parties.'

2. the addition of the point (28) of the introduction as follows (see text in bold):

*(28) The Member States and the Commission should ensure that ESF+ contributes to the promotion of equality between women and men [...] They should also ensure that the ESF+ promotes equal opportunities for all, without discrimination in accordance with Article 10 TFEU and promotes the inclusion in society of persons with disabilities on equal basis with others and contributes to the implementation of the United Nations Convention on the Rights of Persons with Disabilities. These principles should be taken into account in all dimensions and in all stages of the preparation, monitoring, implementation and evaluation of programmes, in a timely and consistent manner while ensuring that specific actions are taken to promote gender equality and equal opportunities. The ESF+ should also promote **accessibility in line with the UNCRPD (Article 9- Accessibility)** and the transition from residential/institutional care to family and community-based care, in particular for those who face multiple discrimination. The ESF+ should not support any action that contributes to segregation or to social exclusion. Regulation (EU) No [future CPR] provides that rules on eligibility of expenditure are to be established at national level, with certain exceptions for which it is necessary to lay down specific provisions with regard to the ESF+ strand under shared management.*

3. *the addition of article 4 as follows (see text in bold):*

1. The ESF+ shall support the following specific objectives in the policy areas of employment, education, social inclusion and health and thereby also contributing to the policy objective for “A more social Europe - Implementing the European Pillar of Social Rights” set out in Article [4] of the [future CPR]:

- (i) improving access to employment of all jobseekers, in particular youth and long-term unemployed, and of inactive people (**i.e. persons with disabilities e.tc**), promoting **employment**, self-employment and the social economy;
- (ii) modernising labour market institutions and services to assess and anticipate skills needs and ensure timely and tailor-made assistance and support to labour market matching, transitions and mobility;
- (iii) promoting women’s labour market participation, a better work/life balance including access to childcare, a healthy and well-adapted working environment addressing health risks, adaptation of workers, enterprises and entrepreneurs to change, and active and healthy ageing; [...]

4. the addition of article 6 as follows (see text in bold):

Article 6 - Equality between men and women and equal opportunities, and non-discrimination

- 1. All programmes implemented under the ESF+ strand under shared management, as well as the operations supported by the Employment and Social Innovation and Health strands shall ensure equality between men and women throughout their preparation, implementation, monitoring and evaluation. They shall also promote equal opportunities for all, without discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation **as well as the accessibility to persons with disabilities** throughout their preparation, implementation, monitoring and evaluation.
- 2. The Member States and the Commission shall also support specific targeted actions to promote the principles referred to in paragraph 1 within any of the objectives of the ESF+, including the transition from residential/institutional care to family and community-based care.

5. the addition of article 7 as follows (see text in bold):

Article 7 - Consistency and thematic concentration

- 1. Member States shall concentrate the ESF+ resources under shared management on interventions that address the challenges identified in their national reform programmes, in the European Semester as well as in the relevant country-specific recommendations adopted in accordance with Article 121(2) TFEU and Article 148(4) TFEU, and take into account principles and rights set out in the European Pillar of Social Rights [.....]
- 5. Member States having a rate of young people aged 15 to 29 not in employment, education or training above the Union average in 2019 on the basis of Eurostat data, shall allocate at least 10% of their ESF+ resources under shared management for the years 2021 to 2025 to targeted actions and structural reforms to support youth employment and school-to-work transition, pathways to reintegrate into education or training and second chance education, in particular in the context of implementing Youth Guarantee schemes. [...]

Outermost regions (i.e. sparsely populated, island regions, mountain regions e.tc.) meeting the conditions set out in the first and second subparagraphs shall allocate at least 15% of the ESF+ resources under shared management in their programmes to the targeted actions set out in the first subparagraph. This allocation shall be taken into account for verifying compliance with the minimum percentage at national level set out in the first and second subparagraphs [...].

6. the addition to Article 8, Partnership, as follows (see text in bold):

Article 8

Partnership

1. Each Member State shall ensure adequate participation of social partners and civil society organisations in the delivery of employment, education and social inclusion policies supported by the ESF+ strand under shared management. **This participation should be inclusive and accessible to persons with disabilities.**
2. Member States shall allocate an appropriate amount , **a minimum of 2%** , of ESF+ resources under shared management in each programme for the capacity building of social partners and civil society organisations.

7. the addition of article 14 as follows (see text in bold):

Article 14 - Eligibility

1. *In addition to the costs referred to in Article [58] of [the future CPR], the following costs are not eligible under the general support of the ESF+ strand under shared management:*
 - (a) the purchase of land and real estate, and the provision of infrastructure, and*
 - (b) the purchase of furniture, equipment and vehicles except where the purchase is necessary for achieving the objective of the operation, or these items are fully depreciated, or the purchase of these items is the most economic option, **or if needed to ensure reasonable accommodation for persons with disabilities.***

8. the addition of article 23 as follows (see text in bold):

Article 23 - Operational objectives

The Employment and Social Innovation strand has the following operational objectives:

- a) to develop high-quality comparative analytical knowledge in order to ensure that policies to achieve the specific objectives referred to in Article 4 are based on sound evidence and are relevant to needs, challenges and conditions in the associated countries;*
- b) to facilitate effective and inclusive information-sharing, mutual learning, peer reviews and dialogue on policies in the fields referred to in Article 4 in order to assist the associated countries in taking appropriate policy measures;*
[...]
- g) to support the development of social enterprises and the emergence of a social investment market, facilitating public and private interactions and the*

participation of foundations, **civil society organizations** and philanthropic actors in that market; [...]

9. the addition of article 40 as follows (see text in bold):

Article 40 Committee under Article 163 TFEU

1. The Commission shall be assisted by the Committee set up under Article 163 TFEU (the 'ESF+ Committee').

2. Each Member State shall appoint one government representative, one representative of the workers' organisations, one representative of the employers' organisations, **one representative of civil society organisations** and one alternate for each member for a maximum period of seven years. In the absence of a member, the alternate shall be automatically entitled to take part in the proceedings.

3. The ESF+ Committee shall include one representative from each of the organisations representing workers' organisations, employers' organisations **and civil society** at Union level.