



EUROPEAN UNION OF THE DEAF

A European Non-Governmental Organisation in official liaison with
European Parliament, European Commission and the Council of Europe

EUD Analysis and Policy Recommendations for the European Disability Card

Introduction

Through the European Strategy for the Rights of Persons with Disabilities 2021-2030 (the Strategy hereafter) the European Commission (the Commission hereafter) has prioritised freedom of movement of persons with disabilities. The Strategy explicitly highlights that when moving to another Member State for work, studies, or other reasons, persons with disabilities may experience difficulties to have their disability status recognised. The Strategy then states that, specifically, this means that persons with disabilities may face barriers when accessing services, including sign language interpreting, and benefits for persons with disabilities in that country.¹ To combat the inequality and discrimination experienced by persons with disabilities, the Strategy includes six 'flagship initiatives' one of which is that the European Commission will propose a European Disability Card (the Card hereafter) by the end of 2023 with a view for it to be recognised in all EU Member States. The Commission also highlights that it will build on the experience of the EU Disability Card pilot project which took place in eight Member States and upon the European parking card for persons with disabilities.

This year, in 2023, the Commission has begun working on a proposal for an official EU Disability Card that would be recognised in all Member States.² To trial the future Card, before developing the official proposal, the Commission launched a pilot project of a Card between 2016 and 2018 in eight Member States - Belgium, Cyprus, Estonia, Finland, Italy, Malta, Romania and Slovenia - within the following sectors - leisure, culture, sport, and, in some cases, transport. The pilot project is now closed and was positively assessed by the evaluation study of the Commission.³

¹ The European Commission, *European Strategy for the Rights of Persons with Disabilities 2021 – 2030*, 2021, URL: <https://ec.europa.eu/social/main.jsp?catId=1484&langId=en>, page 9.

² The European Commission, "Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the regions" – Commission Work Programme 2023, URL: https://commission.europa.eu/system/files/2022-10/com_2022_548_3_en.pdf, page 11.

³ Directorate-General for Employment, Social Affairs and Inclusion (European Commission) , Ernst and Young , IRVAPP, *Study Assessing the implementation of the pilot action on the EU Disability Card and associated benefits*, 2021 , URL: <https://op.europa.eu/en/publication-detail/-/publication/4adbe538-0a02-11ec-b5d3-01aa75ed71a1/language-en>

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EUD welcomes the flagship initiative for a Card as a positive development at EU level and has produced this policy analysis and recommendations to outline concrete ways on how to ensure that the Commission's proposal for an official Card, for all EU Member States, is fully inclusive of deaf persons. If EUD's recommendations are taken into consideration in the Commission's proposal, the future Card has the potential to be a genuine tool for deaf persons in the EU to enjoy their right to freedom of movement on an equal basis with others. So, what does equal enjoyment of the right to freedom of movement constitute for deaf persons in the EU? This means that deaf persons can move across the EU Member States, whether to travel for leisure or work, to move permanently for work or for other reasons etc., without experiencing any barriers, such as the lack of accessibility to benefits and essential services. Environmental and communication barriers when crossing borders hinder the complete implementation of the right to freedom of movement to which all EU citizens are entitled without discrimination. This is explained in detail in one of the sections of this publication.

To develop this publication, EUD produced a feedback survey to collect evidence from the national level from the deaf users of the Card during the pilot project. The survey was disseminated to EUD Member Organisations (National Associations of the Deaf – NADs) within each pilot country. Using the suggestions, experiences and feedback collected, EUD has produced this evidence-based analysis and corresponding policy recommendations in anticipation of the Commission's proposal for a new Card to highlight where, in the pilot project version of the Card, it fell short of the EU's legal obligations and commitments as well as international legal obligations.

This publication includes the following sections: an introduction; an overview of the Card in the form it took during the pilot project and problems that the new, official Card could solve; recommendations for the content of the future Card; a legal analysis to support the Commission's proposal for the future Card; outline of the scope; the mutual recognition of disability status; format and logistics of the Card; and a conclusion. Throughout these sections, the feedback provided by the NADs in the survey on the pilot project of the Card is outlined and used to form the policy recommendations which are stated within each section of this publication.

This analysis and policy recommendations will serve as an important advocacy tool for EUD to disseminate to relevant EU Commission officials, EU decision-makers, European-level NGOs (ENGOS), and other relevant stakeholders in the period running up to the Commission's proposal for an official Card this year (2023).

Overview of the Card, in the form it took during the pilot project, and problems that the new, official Card could solve:

A [European Disability Card](#) has been called for by the disability community since 2011. In 2016, the Commission launched a pilot project to trial a Card involving 8 EU Member States, namely Belgium, Cyprus, Estonia, Finland, Italy, Malta, Romania, and Slovenia. This pilot project Card aimed to enable persons with disabilities to travel and participate in activities across Europe by providing voluntary EU-wide recognition of their disability status within the areas of culture, leisure, sport and, in some cases, transport. The pilot project aimed to address the challenges that persons with

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disabilities face when traveling or participating in various events and activities in different countries, such as communication barriers and difficulty accessing disability-related services. Only persons with disabilities residing in these countries could apply and have access to the benefits provided by this Card. Specifically, this Card, in the form it took during the pilot project, aimed to:

1. Ensure access to services and benefits in the areas of leisure, culture and sport and, in some cases, transport so individuals with disabilities, including deaf persons, could receive benefits across the EU when moving from one EU country to another. This included access to public transport (only in some pilot countries), certain museums, and other cultural venues, as well as discounts or free admission to certain events.
2. Reduce barriers to accessibility and inclusion of persons with disabilities, including deaf individuals who may face communication barriers when exercising the right to freedom of movement. By providing access to services and facilities, it aimed to ensure that individuals with disabilities could participate fully in society.
3. Ensure consistency, by providing a more harmonised approach to disability recognition and accessibility across the EU, to make it easier for individuals with disabilities to navigate and access services in different Member States.

The pilot project of the Card was concluded in 2019 and was positively assessed by the previously mentioned study.⁴ The study highlighted favourable outcomes of the project such as the production and delivery costs of the Card, increased participation of persons with disabilities in different sectors within its scope (culture, leisure, sports, and, in some cases, transport), as well as cross-border mobility. However, certain elements of the project hindered the full Implementation of the Card. Below, several reasons are outlined as to why the Card, in the form it took during the pilot project - a voluntary scheme - was not sufficient nor was it robust enough to facilitate deaf persons' right to freedom of movement across the EU. This Card:

- did not include essential sectors such as health, employment, and education and only included transport in some of the pilot countries but not in all, in which full accessibility is vital for persons with disabilities to enjoy their right to freedom of movement across the EU;
- simply provided a “nice to have” option for persons with disabilities and was not a genuine tool to facilitate the freedom of movement of persons with disabilities across the EU, as generally speaking, it merely provided certain benefits rather than accessibility and reasonable accommodation measures⁵;

⁴ [Directorate-General for Employment, Social Affairs and Inclusion \(European Commission\) , Ernst and Young , IRVAPP, Study Assessing the implementation of the pilot action on the EU Disability Card and associated benefits, 2021, URL: https://op.europa.eu/en/publication-detail/-/publication/4adbe538-0a02-11ec-b5d3-01aa75ed71a1/language-en](https://op.europa.eu/en/publication-detail/-/publication/4adbe538-0a02-11ec-b5d3-01aa75ed71a1/language-en)

⁵ European Disability Forum, *Position on the European Disability Card*, May 2022, URL: <https://www.edf-efeph.org/publications/edf-position-on-the-european-disability-card-2022/>

- did not provide the option to state disability type on the front of it which caused communication barriers for deaf persons regarding their disability status;
- provided unreliable and limited access to benefits due to the voluntary nature of the scheme, as service providers' participation (within the scope) in the project was not mandatory;
- had a lack of access to and awareness of the Card pilot project in participating Member States. For instance, there was a lack of national sign language interpretation provided on each pilot country's website about the Card.

As evidenced by the EUD feedback survey on the pilot project, specifically, 57% of EUD member organisations (NADs) stated that when moving across the EU they did not receive any form of reasonable accommodation or accessibility measures. Moreover, among those who said they did receive reasonable accommodation/accessibility measures, only 33% defined them as sufficient. The Card must be an instrument for deaf persons to address these obstacles and facilitate their moving abroad both for tourism or other short-term travel, as well as for long-term relocation due to cross-border educational mobility, such as the Erasmus programme, or for work purposes.

Nevertheless, in light of the overall positive evaluation, the project provided certain evidence for the benefits of the Card and, therefore, it was included in the [European Strategy for the Rights of Persons with Disabilities 2021 – 2030](#) with the goal of drafting a legal proposal of an official EU Disability Card by the end of 2023.

Unlike the Card, in the form it took during the pilot project, the proposal for the new official Card has the potential to tackle several issues which constitute an obstacle for persons with disabilities to full enjoyment of their right to freedom of movement. Specifically, the Commission's proposal for the official Card has the potential to be a pivotal instrument for persons with disabilities when facing different obstacles. For instance, the Commission's proposal for the Card has the potential to:

- Ensure the obligation of mutual recognition of disability status across the EU;
- Facilitate the accessibility of different services in various sectors for persons with disabilities who wish to exercise their right to free movement. It could also be a tool to ensure the participation of persons with disabilities in certain sectors in which there is a culture of exclusion such as the EU Mobility Programmes and employment;⁶
- Remove barriers when deaf persons need to communicate their disability status (if the new Card includes the option to include this information on it). Further, this would also facilitate the service providers' provision of the

⁶ EUD Webinar, "*The EU Disability Card: experiences and suggestions for the deaf community*", February 2023, European Disability Forum video presentation, [link](#)

specific type of reasonable accommodation required for different disability groups within specific contexts;

- Ensure that persons with disabilities have a recognised disability Card even in their own country of origin - as not all EU Member States have a recognised disability card.

The Commission is committed to producing the proposal for an official Card by the end of 2023. However, this process could last some time which would mean that the official Card would not be operational by the end of 2023. The features of this new Card will vary considerably according to the Commission's proposal. Indeed, the exact scope of this Card will only be established when the proposal is debated and agreed upon among EU institutions.

Currently, there are no details about the form the Commission's proposal of the Card will take - if it will be a regulation - law applicable in its entirety to all EU countries, a directive - a legislative act that sets "goals" for EU countries but which they need to "translate" to national law or another legal format. The Commission is currently developing an impact assessment which will investigate the policy options for the Card and corresponding impacts against the current experience of persons with disabilities when exercising their right to freedom of movement. A factual summary report will be published online within eight weeks of closing the Commission's public consultation on the Card on 5th May 2023, after which a synopsis report of all consultation activities will be annexed to the impact assessment.⁷ In the following section, a legal analysis on the form of the new official Card is provided.

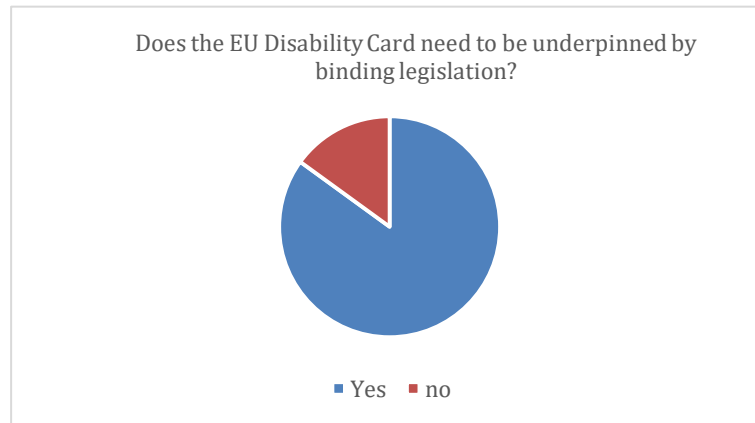
Legal Analysis

Legal Base:

When gathering evidence from the NADs from the pilot countries, 71% said that a binding EU legislation is needed for the future Card to have a genuine impact on ensuring their right to freedom of movement, in terms of removing certain barriers. EUD supports the NADs position that the Card must be supported by a robust legal framework for it to be a tool that will make a real and lasting impact on the freedom of movement for deaf persons. The Commission's proposal for the new Card must be in the form of a binding legislation, specifically a regulation as this would mean that the obligations of the Card would be uniform across all Member States. Furthermore, this would ensure that the same accessibility and reasonable accommodation measures would be available in all Member States, the format and model of the Card would be the same across Member States, and this would avoid discrimination as to who is eligible for the Card. In essence, a regulation for the Card would standardise and harmonise such measures in the EU with regards to freedom of movement for persons with disabilities.

⁷ The European Commission's Call for Evidence for an Impact Assessment, *Supporting Document*, URL: https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13517-European-disability-card/public-consultation_en





Policy Recommendation: For the Card to be a genuinely effective tool to facilitate freedom of movement for deaf persons across the EU, **it must be underpinned by binding legislation in the form of a regulation.**

For the new Card to be underpinned by binding legislation in the form of a regulation, it is important to establish the legal base. According to the Commission, the Treaty of the Functioning of the EU (TFEU), Articles 19, 21, 114, and 352 TFEU⁸ could be used to give grounds for a regulation to be proposed for the Card for all EU Member States.⁹

- Article 19 TFEU grants the EU the competence to combat discrimination based on sex, racial or ethnic origin, religion or belief, *disability*, age or sexual orientation.¹⁰
- Article 21 TFEU lays down the right of *all* EU citizens to move and reside freely within the territory of the Member States; and finally, Article 352 TFEU contains a rule allowing the EU to adopt appropriate measures when, according to the treaties, it lacks competence.¹¹
- Article 114 TFEU confers upon the EU the competence to enact 'measures for the approximation' (also known as 'harmonisation') of national rules regarding the establishment and functioning of the internal market.¹²

⁸ Treaty on the Functioning of the European Union, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A12012E%2FTXT>

⁹ The European Commission's Call for Evidence for an Impact Assessment, *Supporting Document*, URL: https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13517-European-disability-card/public-consultation_en

¹⁰ Article 19, Treaty on the Functioning of the European Union, URL: <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:12008E019:EN:HTML>

¹¹ Article 21, Treaty of the Functioning of the European Union, URL: <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:12008E021:en:HTML>

¹² Article 114, Treaty of the Functioning of the European Union, URL: <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:12008E114&from=MT>

- Article 352 TFEU contains a rule allowing the EU to adopt appropriate measures when, according to the treaties, it lacks competence.¹³

EUD also identified Article 45 TFEU on Freedom of Movement of Persons, Services and Capital, as a possible legal base for a regulation for the future Card, as it obliges the EU to secure the freedom of movement for workers across the EU.¹⁴

Legal Obligations:

The EU ratified the United Nations Convention on the Rights of Persons with Disabilities (UN CRPD hereafter) in 2010 and is therefore a State Party to the Convention. Accordingly, the EU is obliged to ensure equal rights for persons with disabilities and some of these rights could be realised with the new Card. In essence, if developed and implemented effectively, this Card has the potential to support the implementation of the Convention regarding its obligations on freedom of movement as well as non-discrimination and accessibility. In the European legal order, the UN CRPD, as an international treaty, comes after the EU treaty but before secondary legislation. As State Party, the EU is expected to ensure compliance with the UN CRPD in all new and existing legislation.

Regarding the UN CRPD, the following articles oblige the EU, as a State Party to:

- Article 4 UN CRPD on General Obligations - undertake to ensure and promote the full realization of all human rights and fundamental freedoms for all persons with disabilities without discrimination of any kind on the basis of disability.¹⁵
- Article 18 UN CRPD on Liberty of Movement and Nationality - recognise persons with disabilities' right to freedom to choose their residence and to a nationality, on an equal basis with others.¹⁶
- Article 19 UN CRPD on Independent living and Autonomy - ensure persons with disabilities can enjoy the right to live independently in a place of their own choosing, with the freedom to choose and control their lives, whereby they have the right to live independently and choose where they want to live.¹⁷

Moreover, in 2015, the EU was reviewed by the United Nations Committee on the Rights of persons with disabilities. The Committee gave several recommendations on

¹³ Article 352, Treaty of the Functioning of the European Union, URL: <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:12008E352:EN:HTML>

¹⁴ Article 45, Treaty of the Functioning of the EU, URL: <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:12008E045&from=EN>

¹⁵ Article 4 - General Obligations, UN CRPD, URL: <https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities/article-4-general-obligations.html>

¹⁶ Article 18, UN CRPD, URL: <https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities/article-18-liberty-of-movement-and-nationality.html#:~:text=Children%20with%20disabilities%20shall%20be,cared%20for%20by%20their%20parents.>

¹⁷ Article 19, UN CRPD, URL: <https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities/article-19-living-independently-and-being-included-in-the-community.html>

how the EU must better implement and uphold the UN CRPD. Two specific recommendations on freedom of movement state:

*48. The Committee is concerned at the barriers faced by persons with disabilities and persons with family members who have disabilities when moving to live or work in another European Union member State, irrespective of the length of the stay.*¹⁸

*49. The Committee recommends that the European Union take immediate action to ensure that all persons with disabilities and their families can enjoy their right to freedom of movement on an equal basis with others, including with regard to the portability of social security benefits, in a coordinated manner across its member States.*¹⁹

With regards to the EU level Charter, treaties and legislation, the EU Fundamental Rights Charter includes a specific obligation on freedom of movement - Article 45, 1) on freedom of movement and of residence – “1) Every citizen of the Union has the right to move and reside freely within the territory of the Member States.”²⁰

In turn, the fulfilment of these obligations under the international and EU laws will have a knock-on effect in supporting the implementation of other rights, that go hand in hand with freedom of movement, such as accessibility and non-discrimination:

- Article 5 UN CRPD dealing with Equality and Non-Discrimination - prohibits all discrimination on the basis of disability and guarantee to persons with disabilities equal and effective legal protection against discrimination on all grounds.²¹ The denial of accessibility and reasonable accommodation – measures required to facilitate freedom of movement for deaf persons – is a form of disability-based discrimination. However, currently, persons with disabilities, including deaf persons, continue to face several barriers to their freedom of movement (to be discussed in a section below).
- Article 9 on Accessibility - ensure persons with disabilities have access, on an equal basis with others, to the physical environment, to transportation, to information and communications, including information and communications technologies and systems, and to other facilities and services open or provided to the public, both in urban and in rural areas.²² Ensuring accessibility in these areas, is the way to facilitate the freedom of movement for persons with disabilities. For deaf persons specifically, it is the accessibility of information and communications that is vital to ensure their free movement, without facing any barriers, across the EU.

¹⁸ Point 48, UN CRPD Committee, Concluding Observations on the European Union, 2015, URL: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G15/226/55/PDF/G1522655.pdf?OpenElement>

¹⁹ Point 49, Ibid.

²⁰ Article 45, EU Fundamental Rights Charter, URL: <https://fra.europa.eu/en/eu-charter/article/45-freedom-movement-and-residence>

²¹ Article 5, UN CRPD, URL: <https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities/article-5-equality-and-non-discrimination.html>

²² Article 9, UN CRPD, URL: <https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities/article-9-accessibility.html>.



Accordingly, if the Commission were to propose a regulation for the Card, this would support the EU's implementation of these legal obligations under the UN CRPD, the EU Fundamental Rights Charter, as well as the Treaty of the Functioning of the EU.

Commitments:

In addition to these legal obligations that the EU must ensure the freedom of movement of persons with disabilities across the EU, it has also made several commitments under the European Pillar of Social Rights (the Pillar) – a tool which sets out twenty principles and rights essential for fair and well-functioning labour markets and social protection systems. The future Card could support the fulfilment of Principles 3 on equal opportunities, 17 on inclusion of persons with disabilities, and 20 on access to essential services. If the Commission were to propose a regulation on the Card, it would help to realise the following commitments which go hand in hand with the right to freedom of movement:

- Principle 3 states that *“Regardless of gender, racial or ethnic origin, religion or belief, disability, age or sexual orientation, everyone has the right to equal treatment and opportunities regarding employment, social protection, education, and access to goods and services available to the public. Equal opportunities of under-represented groups shall be fostered.”*²³
- Principle 17 states that *“People with disabilities have the right to income support that ensures living in dignity, services that enable them to participate in the labour market and in society, and a work environment adapted to their needs.”*²⁴
- Lastly, Principle 20 states that *“Everyone has the right to access essential services of good quality, including water, sanitation, energy, transport, financial services and digital communications. Support for access to such services shall be available for those in need.”*²⁵

Therefore, for the Commission's proposal for the Card to fulfil these commitments made in the Pillar, it must be a robust and ambitious proposal, that considers all policy commitments as well as legal obligations.

How the Card complements other laws and fills in certain “legal gaps”:

The EU Regulation 883/2004/EC (Regulation 883) coordinates social security systems among the different EU Member States, but only for a limited group of persons with

²³ The European Commission, Principle 3, European Pillar of Social Rights, URL: https://commission.europa.eu/strategy-and-policy/priorities-2019-2024/economy-works-people/jobs-growth-and-investment/european-pillar-social-rights/european-pillar-social-rights-20-principles_en

²⁴ Principle 17, Ibid.

²⁵ Principle 20, Ibid.

disabilities.²⁶ The “provisions introduced by this regulation do not replace national social security systems but rather provide for their coordination by guaranteeing that the application of various national legislations does not pose a limitation to the right to freedom of movement”.²⁷ Regulation 883 was adopted before the EU ratified and became a State Party to the UN CRPD. This resulted in Regulation 883 “not reflecting a human rights-based approach to disability and coordinating the benefits of economically *inactive* people with disabilities only, disregarding the reality that many persons with disabilities work across borders”.²⁸ Furthermore, today, the continued exclusion of these benefits from the EU social security coordination rules would constitute a violation of the UN CRPD, in particular Article 27 thereof, as well as the Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation.

For economically active deaf persons who wish to exercise the right to free movement for the purposes of work, “Regulation 883 leaves out the coordination of work related benefits that grant access to sign language interpreting services”.²⁹ Specifically, a “coordination of benefits that grant access to sign language interpreting services would include a coordination of any benefit in kind, cash or combination of both that is provided to economically active deaf citizens to guarantee their access to sign language interpreting services in another EU country with the objective of supporting their access to, inclusion and retention in the labour market.”³⁰ For instance, there must be EU level legislation in place to coordinate the work-related benefits that grant access to sign language interpreting services for economically active deaf persons who wish to exercise their right to freedom of movement, as Regulation 883 currently does not regulate it. Coordinating deaf persons’ access to sign language interpreting services when moving to another EU country, would mean that deaf persons were able to accept job opportunities abroad without the uncertainty and concern that they may face barriers to their accessibility of communication and information. Moreover, in the EU Social Rights Pillar Action Plan, under the section on Labour Mobility, the Commission encourages the “European Parliament and the Council to conclude negotiations on the revision of social security coordination rules.”³¹

In 2018, however, Regulation 883 went under review, and certain Members of European Parliament submitted amendments which aimed to ensure the coordination of the benefits of economically active persons with disabilities within Regulation 883. For instance, within the amendments, member of the European Parliament Committee on Employment and Social Affairs, Ms Helga Stevens (former MEP), suggested to define that *“work-related disability benefit” means any benefit in kind, cash or combination of both that is provided to economically active citizens with a disability*

²⁶ EU Parliament and EU Council, Regulation 883/2004/EC, URL: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32004R0883>

²⁷ European Union of the Deaf, Position Paper - “Freedom of movement in Europe for economically active deaf persons and deaf learners”, November 2021, URL: <https://www.eud.eu/eud/position-papers/freedom-of-movement/>

²⁸ Ibid.

²⁹ Ibid.

³⁰ Ibid.

³¹ European Commission, *Labour Mobility*, EU Pillar of Social Rights Action Plan, URL: <https://op.europa.eu/webpub/empl/european-pillar-of-social-rights/en/#A44>

with the objective of supporting their access to, inclusion and retention in the labour market.”³²

Thus, existing EU coordination legislation, including the revision of Regulation 883, has, with regards to persons with disabilities, mostly focused on those who are economically inactive. This however does not account for the diversity that exists within the community of persons with disabilities and excludes all those economically active persons with disabilities.

There are many economically active persons with disabilities who are able to work but simply require support services and reasonable accommodation measures for equal access to the labour market, including in cross-border situations while exercising their right to free movement. The coordination of these disability benefits at EU level is therefore crucial to ensure the freedom of movement of workers with a disability across the EU. Persons with disabilities in the EU still face significantly higher levels of unemployment than persons without disabilities; this is partly due to barriers to accessing these benefits in another EU country because of a lack of coordination rules.

Moreover, in light of the development of the Card, which is a flagship initiative of the European Disability Rights Strategy 2021 – 2030, EUD would like to highlight that the European Parliament report on the implementation of the European Disability Strategy 2010 – 2020, adopted on the 30th of October 2017, specifically called on the co-legislators to give consideration to the inclusion of persons with disabilities as a specific target group in the Social Security Coordination Regulation³³. Given this was not considered when revising Regulation 883, this could now be dealt with in the legislative framework of the official Card.

In particular, if the Commission’s proposal for the future Card were to coordinate social security systems, the Card could facilitate the accessibility of administrative procedures of all EU countries. For deaf EU citizens to successfully follow compulsory administrative proceedings upon arrival to the host country, the information and communication of this must be available in national sign language(s). However, EUD points out with regret that many compulsory administrative proceedings are only available in the written or spoken language of the country.

Policy Recommendation: To comply with its obligations under the UN CRPD, in its proposal on the Card, the Commission must either **a) fill the gap that Regulation 883 presents by ensuring that their proposal for an EU Disability Card includes the provision that the Card coordinates the (currently uncoordinated) social security benefits of economically active persons with disabilities.** OR **b) to revise Regulation 883 to extend the provision of coordinating social security benefits to economically active persons with disabilities.**

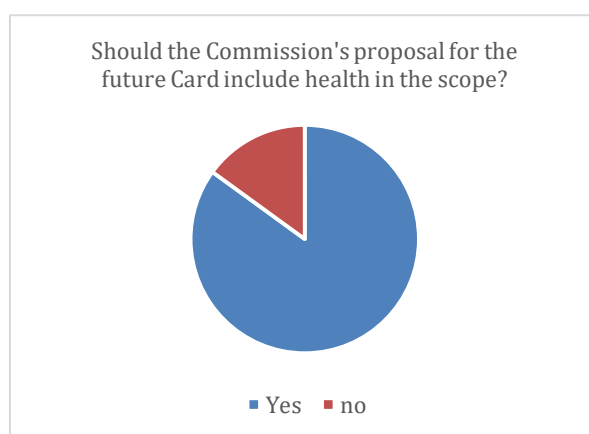
³² Ms Helga Stevens, European Parliament Committee on Employment and Social Affairs, Amendment 15, Amendments to Regulation 883/2004 on the Coordination of Social Security Systems, page 11.

³³ Point 67, <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+REPORT+A8-2017-0339+0+DOC+XML+V0//EN>

Scope:

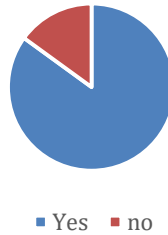
During the pilot project, the Card aimed to ensure equal access to benefits across borders for persons with disabilities, in culture, leisure, sport and, in some cases, transport. However, persons with disabilities, including deaf persons, face various barriers in other key areas of life which hinder their right to freedom of movement in the EU, such as in employment, education, health and more.

Accordingly, the Commission, within its proposal, must take serious consideration of expanding the scope of the future Card. In the feedback EUD received from NADs on the pilot project, 100% of the respondents said that, based on the pilot project of the Card, the scope of the upcoming Card should be expanded to include health, 57% said it should be expanded to include education, and 42% said it should be expanded to include employment. If the Commission's proposal for the future Card doesn't include these sectors, alongside those included in the previous Card (pilot project), the new Card will merely be a "nice to have" option for persons with disabilities, rather than a genuine tool to ensure their freedom of movement across the EU.



For instance, in the feedback survey, 85% of NADs said that, when using the Card during the pilot project, it simply provided them with "additional benefits", and only 42% said that when moving across the EU it provided equal access to disability related services that are already available for persons with disabilities in the host EU country. Further, EUD held a [webinar](#) on "the EU Disability Card: experiences and suggestions of the Deaf Community" in which a number of representatives from the NADs mentioned that the scope of the Card should be expanded to include health, particularly in emergency situations when quick and easy communication is essential.

Did the pilot project version of the Card only provide you with additional benefits (rather than accessibility and reasonable accommodation measures)?



Environmental and communication barriers hinder the access of deaf persons to services and facilities across the EU. Specifically, as previously mentioned, for deaf persons this entails the lack of access to information and/or interpretation in sign language within different sectors. According to the EUD survey, this was particularly true within the sector of transport: 71% stated that they experienced barriers when using transport services abroad and indicated that the scope of the Card should be further expanded in the transport sector. Therefore, the Commission's proposal should include transport in the scope of the future Card, as during the pilot project, transport wasn't included in the scheme of all participating Member States. In addition to this, 42% indicated that the sector of culture was inaccessible to them.

On this basis, the Commission's proposal for the future Card must include, along with those included in the pilot project, the following key sectors – transport, health, education, and employment, meaning the Card would facilitate the provision of accessibility and reasonable accommodation measures within key sectors when moving across the EU.

Policy Recommendation: For the Commission's proposal for an EU Disability Card to be a genuine tool to facilitate the freedom of movement of persons with disabilities, **the Commission's proposal must ensure the scope includes transport, education in the framework of EU Mobility Programmes, facilitate employment in the transition phase to access the national disability benefit system when moving abroad, and health, whereby the Card facilitates the provision of accessibility and reasonable accommodation measures, rather than merely "nice to have" benefits.**

Mutual recognition of disability status:

The Commission's proposal for the future Card must address the current gaps in existing EU legislation to ensure it is a robust and complementary piece of legislation on the topic of freedom of movement and mutual recognition of disability status for

persons with disabilities. For instance, Article 56 TFEU³⁴ and the EU Directive on Services in the Internal Market (2006/123/EC)³⁵ prohibit discrimination on the basis of nationality. However, service providers are not explicitly obliged to recognise the disability status certified in a different country of origin. This may lead to indirect discrimination on the basis of nationality in some cases, or at least to uncertainty as to whether service providers will recognise the disability status.³⁶

There is currently no mutual recognition of disability status across the EU, meaning that when deaf persons wish to travel or move to another Member State than their country of origin, they experience additional barriers as their disability is not automatically recognised in the host country. The cross-border recognition of the disability status would allow deaf persons to exercise their right to freedom of movement without additional barriers caused by the lack of their disability status recognition in the host country.

When moving to another Member State, for example to work or study, persons with disabilities usually need to undergo a specific assessment to have their disability status recognised by the host country. Some service providers offer certain measures to persons with disabilities, but they do not always provide such conditions to persons with disabilities from other Member States, who do not have an officially recognised disability in the host country. In this way, the Card could facilitate the mutual recognition of disability status for deaf persons which would enable them to move freely without the fear of not having their disability recognised in other countries than their own.

Furthermore, currently, when moving from one country to another in Europe for the purposes of employment or education, deaf persons lose their benefits that grant them access to sign language interpreting services because the access to these services depends on an individual disability assessment which is different in each European country. Accordingly, when moving to the host country, a deaf person should have their disability status recognised in order to ensure access to all areas of life as established by their country of origin. The cross-border recognition of the disability status would allow deaf persons to exercise their right to freedom of movement without additional and lengthy proceedings in the host country. Furthermore, this would allow deaf persons immediate access to the required services.

Therefore, the mutual recognition of disability status would facilitate deaf persons' access to the required reasonable accommodation and accessibility measures. Moreover, deaf persons, who do not use speech to communicate, face a communication barrier when alerting service providers of their disability when trying to access the required reasonable accommodation measures in certain sectors. Therefore, the future Card could be a way for them to communicate their disability to others, and therefore have access to the required measures.

³⁴ Article 56, Treaty of the Functioning of the European Union, URL: <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:12008E056:EN:HTML>

³⁵ European Parliament and the European Council, EU Directive on Services in the Internal Market (2006/123/EC), URL: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32006L0123>

³⁶ The European Commission's Call for Evidence for an Impact Assessment, *Supporting Document*, URL: https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13517-European-disability-card/public-consultation_en

When consulting NADs in the EUD feedback survey, during the pilot project of the Card, only 28% NADs said they were able to avail of reasonable accommodation measures within the area of **culture** to an extent of 5/10, 28% said they were able to avail of reasonable accommodation measures within the area of **leisure** to an extent of 4/10, 28% said they were able to avail of reasonable accommodation measures within the area of **sport** an extent of 4/10, and 14% said they were able to avail of reasonable accommodation measures within the area of **transport** to an extent of 8/10. This feedback highlights that the Card, in the form it took during the pilot project, was not an instrument that guaranteed the mutual recognition of disability status providing equal access to accessibility and reasonable accommodation measures when moving across the EU. This is due to the fact that the pilot project of the Card was a voluntary scheme, whereby service providers within the sectors in its scope, must only voluntarily recognise the Card, and therefore, disability status. This led to a lack of certainty for persons with disabilities when exercising their freedom of movement, as to whether they would have access to certain events, or activities.

In response to the EUD survey on the pilot project of the Card, 42% NADs answered that they experienced a lack of recognition of disability status when in another participating EU country. On this basis, the Commission's proposal for the Card must include the obligation for service providers, within the scope of the Card, to ensure the mutual recognition of disability status.

Policy Recommendation: It is essential that the Commission's proposal for an EU Disability Card **must place an obligation on Member States to ensure the mutual recognition of disability status in all EU Member States.** This will mean that persons with disabilities travelling to, staying in, or moving to another EU Member State than their country of origin, will have accessibility within the required services.

Format and logistics of the Card:

Deaf persons have an invisible disability, therefore it is important that the Card provides a way for applicants to state their disability to service providers, if they wish to. Further to this, as deaf persons experience communication barriers, it is important to have an option to disclose their disability on the Card, as this could provide an effective means to communicate their disability. However, for deaf persons who use speech, the fact that the Card does not mention deafness means that they are not always taken seriously (EUD received information about cases where deafness was questioned because the person was speaking, and therefore, no reasonable accommodation was provided).

Further to this, it is not only important for deaf persons that services providers are made aware of their deafness, but also it is essential that they understand the types of accessibility and reasonable accommodation measures to provide for deaf persons. For instance, one of EUD's members specifically highlighted that:

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“The deaf persons (and also other disabled people) do not always have the possibility to say what they want as an adaptation, especially when something has to be put in place for communication to take place. Sometimes, in this case, the person in front of them makes a mistake and tries to “diagnose” something that may be wrong: some deaf people are considered as having a psychosocial disability, some deafblind people are considered as being blind with psychological disability and not deaf! How, in this case, can the interlocutor or the organisation know what accommodations to offer?”

In addition to this feedback, an EUD member from Belgium (a pilot project country) stated the following about the lack of possibility to state your disability on the Card:

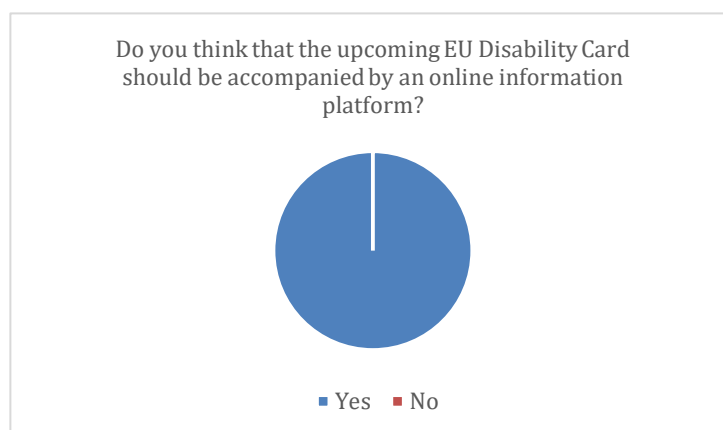
“What we have never understood, is why, when ordering the card, people with disabilities are not given the opportunity to choose for themselves which logos/information about their disability they want on the card. For some disabilities, this is important for the person because it is the only possible official means of communication about the nature of the disability. It gives more weight to specific requests (e.g. priority access to toilets, need for subtitling or writing etc.) Many disabilities do not fit into “boxes”, or are invisible, and it is important that this gives weight to the request.”

Finally, EUD hosted a webinar on “the EU Disability Card: experiences and suggestions of the deaf community” where several participants mentioned the need for the Card to include this feature.

Policy Recommendation: EUD recommends that when a person is applying for the Card, **they have a choice of what to include about their disability on the Card, e.g. disability type, in the most suitable manner, technically speaking**, including the option to not state anything. For instance, this could take the form of a **QR code which could link to information about the sort of accessibility and reasonable accommodation measures required for that type of disability**. For example, for deaf persons, it could state that sign language interpretation is required to facilitate communication.

For deaf persons in Europe to exercise freedom of movement on an equal basis with others, more available, accessible and centralised information is needed on how to access sign language interpreting services in another EU country. EUD regrets the current lack of information about sign language interpreting services in different European countries that would be available for deaf persons who wish to or aim at exercising their right to freedom of movement. On this basis, when consulting EUD member organisations, 85% responded to the survey saying that the future Card should be accompanied by an informational online platform in order to have access to centralised information about the Card and its services. This online information platform would allow deaf persons to make informed decisions by learning about the availability, affordability, accessibility and quality of sign language interpreting services, subtitling and other benefits before physically moving or travelling to another country in Europe. The section relating to measures available for deaf persons should

also include all relevant information about how to access work-related benefits that grant access to sign language interpreting services in another European country.

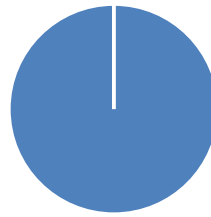


Policy Recommendation: EUD recommends that the Commission's proposal for the Card includes the provision for **an online information platform to be created to accompany the Card**. This platform should include information about the different types of services available in each Member States and what different accessibility measures are available with use of the Card according to each disability type. For deaf persons, for instance, this would mean accessible information about which service providers provide with sign language interpreting services or subtitling in different European countries.

EUD is concerned that in some European countries, there is a continuous lack of awareness about accessibility of information and communication through sign language(s) and/or sign language interpreters. Considering this, to facilitate awareness-raising, training programmes on accessibility and reasonable accommodation should be developed by all Member States and provided to all participating services providers. The training programmes should be developed in collaboration with persons with disabilities, including deaf persons, and their representative organisations as the type of accessibility requirements changes depending on the disability type. It is vital that within the training programmes, some should be focused on accessibility of information and communication through national sign language(s).

EUD consulted its members (NADs) on this topic, and the majority - 71% - said that the Card should be rolled out with the obligation for Member States to provide service providers with training on accessibility and reasonable accommodation measures. The survey feedback from NADs, as mentioned previously, also highlighted that those deaf persons using the Card in the pilot countries, were barely able to access sufficient reasonable accommodation measures.

Do you think that the Commission's proposal for an EU Disability Card should include an obligation for Member States to provide service providers with training on accessibility and reasonable accommodation?



■ Yes ■ No

Policy Recommendation: EUD recommends that **the Card be accompanied with the obligation for EU Member States to develop and run training programmes within the sectors under the (expanded) scope of the Card** to facilitate information sharing and awareness-raising on the types of accessibility and reasonable accommodation measures required for each disability group.

Under the pilot project for the Card, institutions and organisations were free to choose what accommodations and assistance to provide, or not, to the person presenting their Card. EUD received information from its members that sometimes there were no reasonable accommodation measures available, nor were there any reduced rates provided. Accordingly, as there is a general lack of awareness and understanding around accessibility and reasonable accommodation measures for deaf persons, EUD recommends that the Commission's proposal for the Card should also include the provision that the Card must be accompanied with clear guidelines, for service providers, of the types of reasonable accommodation and accessibility measures available for each disability group. These common guidelines should be developed in collaboration with persons with disabilities and their representative organisations. The guidelines would complement the training provided to service providers and offer a concrete reference point to assist them in ensuring the provision of the correct and sufficient measures for persons with disabilities when they present their card.

42% of EUD member organisations said that the Card should be accompanied by EU guidelines on accessibility/reasonable accommodation measures. This reflects that NADs placed more importance on the provision of training programmes for service providers than on a common EU guideline. However, the Belgium NAD provided additional feedback on the pilot project of the Card saying that "*Institutions and organisations are free to choose what they provide or not to the client presenting the card. This has its limits, there should be clear and precise basic guidelines.*" This feedback further supports the need for a multi-faceted approach to ensuring the

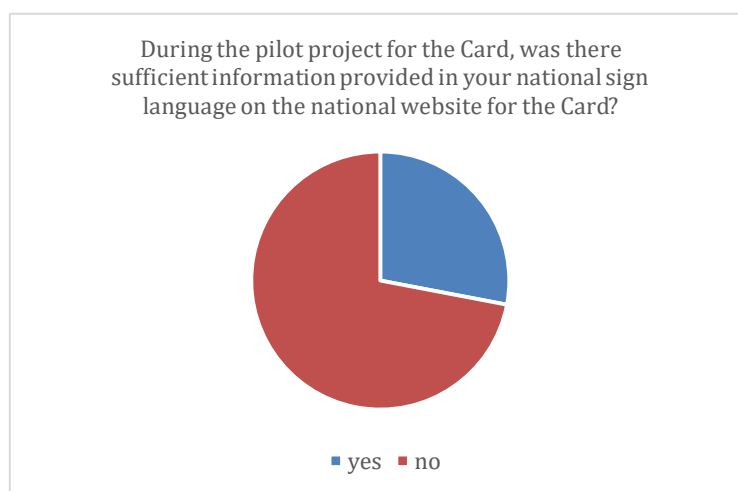
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effective implementation of the Card, in terms of ensuring the correct measures are available and provided for each disability group. In this way, EUD recommends the Commission to include in the proposal for the Card, a combined approach to ensure effective implementation of the Card, namely, an online information platform, training for service providers, as well as common EU guidelines.

Policy Recommendation: The proposal for the Card should be accompanied with the obligation for common European guidelines to be developed for service providers on how to ensure accessibility and reasonable accommodation for each disability type.

However, within the eight EU Member States that participated in the pilot scheme (Belgium, Cyprus, Estonia, Finland, Italy, Malta, Romania, Slovenia), only Belgium, Cyprus (the information could be more extensive), Finland, and Romania (the information could be more extensive) provided information about the Card in their national sign languages on the national websites for the Card. When the future Card is rolled out to all EU Member States, it is vital that all provide sufficient information on the Card itself, as well as how to obtain the Card, in their respective national sign language(s). As all EU Member States are State Parties to the UN CRPD, they are obliged to provide this information in their national sign language(s) to ensure full accessibility to all deaf persons.

Moreover, only 28% of NADs responded to the survey saying there was sufficient information provided in their national sign language on the national website for the Card. This highlights the importance of ensuring all information on the Card is provided for in national sign languages. Therefore, this measure must be included by the Commission in its proposal on the new official Card.

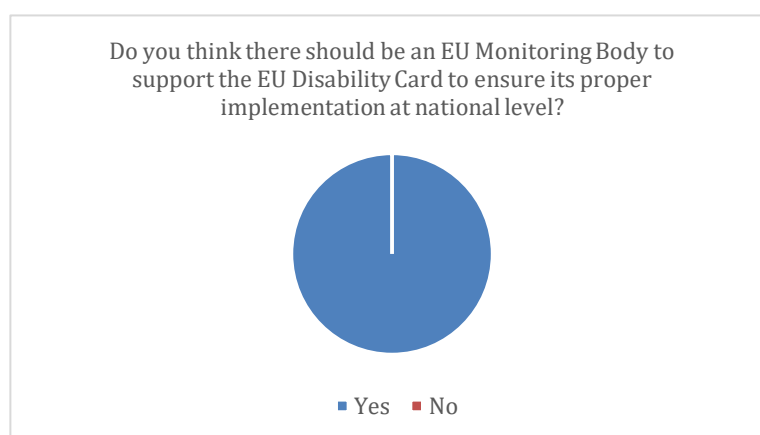


It is also essential that all communication on obtaining the Card is made accessible to deaf persons. This would mean ensuring the provision of qualified, professional sign language interpreters if/when a deaf person requires support, i.e., has questions, at

any point during the application process or otherwise. This provision should also be made clear as an option for deaf persons on each Member State's website about the Card.

Policy Recommendation: Each EU Member States' public authority implementing the Card should provide a) clear and easily accessible information of how to apply for the Card, and b) all this information must be available in the Member State's national sign language(s).

EUD also consulted NADs about the importance of effective implementation of the Card at national level. 100% responded that they believe there should be an EU Monitoring Body the support the Card to ensure its proper implementation at national level.



Policy Recommendation: Therefore, in terms of governance, **EUD recommends that there is an EU Disability Card Monitoring Body established at EU level** to ensure proper and full implementation of the Card in all Member States.

Conclusion

Addressing the barriers to freedom of movement of persons with disabilities is essential for empowering all persons with disabilities and achieving a Union of Equality. However, to achieve this, much remains to be done as highlighted by this publication. This publication provides an evidence base for and explanation of the need for a strengthened version of the EU Disability Card, than that which was employed for the pilot project between 2016 – 2018, as it fell short of ensuring this right in several ways. Importantly, for the new Card to be a genuine tool to facilitate the freedom of movement of deaf persons across the EU, in summary, EUD recommends that the Commission's proposal must:

- Be underpinned by binding legislation. As such, the Commission’s proposal for the new Card must be in the form of a regulation as this would mean that the obligations of the Card would be uniform across all Member States;
- Ensure the scope includes **transport**, **education** in the framework of EU Mobility Programmes, **employment** to facilitate the transition phase to access the national disability benefit system when moving abroad, and **health**, whereby the Card facilitates the provision of accessibility and reasonable accommodation measures, rather than merely “nice to have” benefits;
- Place an obligation on Member States to ensure the mutual recognition of disability status in all EU Member States;
- Either a) fill the gap that Regulation 883 presents by ensuring that their proposal for an EU Disability Card includes the provision that the Card coordinates the (currently uncoordinated) social security benefits of economically *active* persons with disabilities. OR b) to amend and update Regulation 883 to extend the provision of coordinating social security benefits to economically *active* persons with disabilities;
- Ensure there is the choice of what to include about disability type on the Card in the most suitable manner, from a technical perspective, including the option to not state anything, e.g. a QR code;
- Include the provision for the creation of an online information platform to accompany the Card;
- Be accompanied with the obligation for EU Member States to develop and run training programmes within the sectors under the scope of the Card;
- Be accompanied with the obligation for common European guidelines to be developed for service providers on how to ensure accessibility and reasonable accommodation for each disability type;
- Ensure that each EU Member States’ public authority implementing the Card should provide a) clear and easily accessible information on how to apply for the Card, and b) all this information must be available in the Member State’s national sign language(s);
- Include the provision for an EU Disability Card Monitoring Body to be established at EU level to ensure proper and full implementation of the Card in all Member States.

As always, when developing policies and legislation for persons with disabilities, it is important to account for the different types of accessibility measures required by each disability type. For instance, deaf persons experience specific barriers to their freedom of movement due to the lack of communication and information provided in their

respective national sign languages. In this way, it is crucial that, throughout the entire process from the policy and legislative procedure to the implementation and communication of the new Card, this must be conducted in close consultation with, and involvement of, persons with disabilities and their representative organisations.

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