



# European Disability Card and European Parking Card

## EDF analysis of the Commission proposal

2 October 2023

### Introduction

The European Commission published the proposal for a Directive establishing the European Disability Card and European Parking Card<sup>1</sup> on 6 September 2023. EDF has done a first analysis of the proposal, from the point of view of persons with disabilities who are the eventual users and beneficiaries of these cards. The purpose of this paper is to inform policy makers in the European Parliament, the Council (Member States) and other stakeholders of what the proposal offers persons with disabilities. We highlight here what are the positive elements of the proposal, and where the proposal could be strengthened.

### Analysis of the proposal

First of all, we would like to underline that our initial reception of the proposal is very **positive**. The proposal will result in binding legislation for both Cards. For many years EDF has campaigned for the European Disability Card, and we, and our extensive membership took part in the policy development process till now; most priorities we highlighted have been included in the proposal. The Card will serve as a basis for raising greater awareness of diversity and promoting the acceptance of people with disabilities in society, while also enhancing social responsibility.

It must also be noted that the Cards will not solve all the problems of free movement for persons with disabilities. Essentially the Disability Card will provide assurance of mutual recognition of disability for persons with disabilities for all services, facilities and activities for short stays in other EU Member States. A significant barrier to free movement for persons with disabilities is not included: this is with regard to social protection underpinning the permanent moving to another Member States to work or study. In the context of what an instrument like the Disability Card can achieve, it is very promising in the sense of creating certainty and removing administrative barriers for both persons with disabilities and private

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<sup>1</sup> <https://ec.europa.eu/social/BlobServlet?docId=27084&langId=en> (retrieved on 26 September 2023)

and public operators of services, facilities and activities. EDF calls on the EU institutions to move quickly to improve the proposal and adopt it as soon as possible and we stand ready to engage with all policy makers who wish to have further information on how these cards impact us.

### **The strong points of the proposal are:**

- Proposal for a Directive (the second strongest type of legislation; has to be transposed into national law) – EDF had asked for binding legislation, and this we achieved. It is not a Regulation, the strongest type of law, but achieving a Directive is also already a good result.
- It is not based on a restrictive list of services – but the mutual recognition of disability status in all services facilities and activities (public and private services), except regarding social security. This widens the current scope of the Disability Card pilot project.
- According to the proposal, the Cards will work on the basis of mutual recognition. This means that the disability assessment procedures and the decision about who will receive the Cards will not be harmonised but will be issued according to national rules and procedures. However, when a person is a Card holder, they will receive the same treatment as local person with disabilities when visiting another EU country.
- The European Disability Card will respect a person’s privacy and will not have any detailed information about the type of disability or “level” of disability.
- The Directive will be complemented by delegated and implementing acts – to be drafted and adopted after the adoption of the legislation – to lay down the characteristics of the Card(s).
- The Disability Card and the Parking Card will remain separate.
- There will be a physical card, and an electronic version, of both Cards and both will be fully accessible.
- Measures are foreseen to avoid forgery and fraud.

- The European Disability Card can complement national disability cards.

## Where should the proposal be strengthened?

- The Disability Card clearly excludes anything related to social security, social assistance and other residence-based social benefits in cash or in kind, as this is regulated under Regulation 883/2004<sup>2</sup> on the coordination of social security systems. EDF regrets that this opportunity was missed because the problem of moving to another Member State for work or study has not been solved. Persons with disabilities will still face a gap in the provision of vital services, such as personal assistance, adapted housing, provision of reasonable accommodation, assistive devices, etc., when moving permanently to another Member States for work or studies. While they immediately lose their right to social security related benefits in their home country, it takes months or sometimes years to have their disability recognised in the new country of residence. In the interim period, the persons concerned are left with nothing and must pay for these vital services out of their own pocket. We believe that the EU does have scope for action here, especially because Article 21(2) of the Treaty on the Functioning of the EU as a residual legal base, provides for the EU to adopt legislation to “facilitate the right of EU citizens to move and reside freely within the territory of the Member States.”<sup>3</sup>

Example: A person using personal assistance wants to move from Latvia to Belgium for work. Since disability benefits are coupled to residence in Latvia, the person loses their right to receive disability benefits as well as their personal budget to pay for personal assistance upon arrival in Belgium. However, in Belgium it can take more than one year to have their disability recognized. In the meantime, the person has to pay for personal assistance themselves, leaving them in a precarious administrative and financial situation.

Therefore, EDF asks that the Disability Card should provide this temporary protection while the disability is being re-assessed in the new country of residence when somebody moved with a work contract or enrolled in an education facility.

- The Disability Card does not include provisions on the EU Mobility Programmes (e.g. ERASMUS+). That means that students or interns moving abroad to study or do an

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<sup>2</sup> Regulation 883/2004 on the coordination of social security systems, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A02004R0883-20140101> (retrieved on 20 September 2023)

<sup>3</sup> Consolidated version of the Treaty on the Functioning of the European Union, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A12012E%2FTXT> (retrieved on 26 September 2023)

internship will still lose their social security benefits from their country of residence and will not automatically get disability status in their host country. However, this does not affect the right to the inclusion budget under ERASMUS+ or any support the University might offer to students regardless of their nationality or residence status.

- The proposal leaves the responsibility of awareness raising campaigns, information about the advantages available, and funding the Cards up to the Member States. EDF outlined that it would be essential to have an EU-level centralized database in all EU languages showing the available advantages for each Member State, designated EU funding, and an EU-level awareness raising campaign aimed at citizens and service providers. We believe it would be better to have a centralised approach on EU-level to ensure harmonisation of the information, coherence, and accessibility and to avoid delays, misunderstandings and incoherences in implementation later on.
- Currently, the proposal only includes EU citizens and their family members as potential Card holders both for the Disability Card and the Parking Card. This should be widened also to third country nationals who are resident in the EU and have their disability recognised by a Member State. While the Commission mentions this possibility on p. 5 of the explanatory memorandum accompanying the Directive, it is not a firm commitment and it needs to be included directly in Art. 4 of the text.
- The proposal tackles the issue of the lack of harmonisation of the design of the Parking Cards as they are issued now by the Member States. However, it does not address the problem of parking spaces and the rules around parking itself. This should also be included in the Directive, for example by setting up an EU-level database to easily access information about parking rules and parking spaces (definitions, location, etc.).
- The involvement of persons with disabilities and their representative organisations is not mentioned explicitly in the text of the proposal, except for Article 16 on reporting and review. Persons with disabilities should be more strategically involved in the implementation and evaluation of the Directive and this should be explicitly mentioned in the text.
- A smaller but nevertheless important point is that the proposal allows for automatic issuing of the Card in Art. 6.4. EDF would like to underline that it has to remain fully

voluntary to become a Card holder to avoid stigmatisation. There should be no direct issuing of the Card unless the person has asked for it or explicitly agreed to have the Card issued or renewed automatically. Furthermore, it should never be an obligation to show the Card as proof of disability for services that are granted under other Union legislation, such as the right to assistance at airports under Regulation 1107/2006.

- Finally, it should be explicitly mentioned that the Cards should be issued free of charge.

## **Other observations**

EDF is aware that in its current form, the proposal would for example allow for the situation that two persons with the same disability from two different countries are treated differently when they are visiting a third Member State. One might receive the Disability Card and the other one not, based on the national assessment and distribution criteria. Despite these remaining issues, we believe that the Card will be a first step to build further demands on. Once it is adopted, our long-term advocacy strategy has to tackle those issues on the level which is most appropriate depending on the competence.

## **Documents**

- [Press release from the European Commission on the European Disability Card](#)
- [Proposal for an European Disability Card](#)
- [Proposal for an European Disability Card \(Easy-to-Read version\)](#)
- [European Disability Forum – European Disability Card campaign page](#)
- [European Commission – Report on public consultations](#)

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