

Accessibility and freedom of movement for persons with disabilities

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Introduction

Accessibility of both the physical and digital environment is one of the main preconditions for the fulfilment of other inherent rights of persons with disabilities, including autonomy, inclusion and participation in society, equal access to services including healthcare, education, access to employment, as well as mobility and free movement. As such, accessibility is a cross-cutting issue that concerns different policy areas and should be implemented across borders in the EU, not only to provide equal treatment of people with disabilities regarding access to products, spaces and services, but also to allow them to exercise their EU citizenship and liberty of movement on an equal basis with other EU citizens.

The United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) lists accessibility as a fundamental right in Article 9, while the right to liberty of movement and nationality is enshrined in Article 18, the right to live independently and be included in the community in Article 19, and the right to personal mobility in Article 20.¹ Both the EU and all its Member States have ratified the UNCRPD and are required to implement it, insofar as this falls within their competences. The current European Strategy for the Rights of Persons with Disabilities 2021-2030 (the ‘EU Strategy’) is the EU’s agenda for the coming years regarding implementation of the UNCRPD. It pays special attention to accessibility in *Chapter 2: Accessibility – an enabler of rights, autonomy and equality* and *Chapter 3: Enjoying EU Rights*, which focuses on two aspects including *Moving and residing freely in the EU*². While the EU has adopted multiple pieces of legislation and soft measures to improve accessibility and facilitate free movement of people with disabilities in the EU, gaps persist that could be further addressed.

This background note has been drafted for the workshop ‘Free movement and access to employment (for persons with disabilities)’, organised by the Belgian Presidency of the Council of the European Union on 13 November 2023. While the note does not claim to provide a comprehensive mapping of the vast policy area of accessibility and free movement for persons with disabilities, its main purpose is to provide background on the existing legal and policy framework at EU level. Furthermore, it aims to outline several discussion points on potential steps forward.

We discuss the legal and policy framework for accessibility and free movement of persons with disabilities in the EU, and then address some of the remaining gaps in the accessibility

¹ United Nations. (2006). Convention on the Rights of Persons with Disabilities. Treaty Series, 2515, 3. Article 9 – Accessibility. Available at: <https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities/article-27-work-and-employment.html>.

² European Commission. (2021). Union of Equality: Strategy for the Rights of Persons with Disabilities 2021-2030.

legislation and major impediments to free movement of people with disabilities. The paper concludes with a few suggestions on the opportunities to address the remaining gaps in the second half of the EU Strategy, which could be used as a starting point for the discussions in the workshop.

1. Policy and legal framework: accessibility and free movement of persons with disabilities in the EU

1.1 Accessibility

Accessibility legislation and standardisation at EU level ensure that all citizens can access products and services and participate in society on an equal basis with others, as well as strengthen the principles of the internal market, built on the four freedoms of movement of goods, capital, services and people (**Article 26 TFEU**). The EU has taken multiple actions to help develop an accessible physical and digital environment for people with disabilities, while working towards common standards in four main areas.

A brief overview of the legal acts adopted in these areas with a focus on accessibility for people with disabilities includes the following³: **1) goods and services** – two **European Directives on Public Procurement**⁴, adopted in 2014, which in addition to the technical specifications on accessibility, also allow Member States the right to use ‘reserved contracts’ for operators who employ persons with disabilities and/or whose main aim is integration of disabled people (Article 38, **Directive 2014/25/EU**); **Directive on payment services in the internal market**⁵, adopted in 2015, which requires payment service providers to provide information on users’ rights in a format which is accessible to people with disabilities (Article 106); and the **European Accessibility Act**⁶ (EAA), which came into force on 27 June 2019, after almost 10 years in preparation. It is to be transposed by the EU Member States by 28 June 2022, and will only apply to services and products entering the market after 28 June 2025 (see *Section 2.1*); **2) transport** – the **Air Passengers’ Rights Regulation**⁷, adopted in 2006, providing, inter alia, the right for persons with disabilities to receive comprehensive assistance when travelling by air, and the requirement for disability-equality and disability-awareness training (Article 11); the **Regulation on the rights and obligations of rail passengers**⁸, adopted in 2021 (recast, first adopted in 2007), with provisions on the right to assistance and non-discrimination for persons with disabilities (Article 1), right to transport for persons with disabilities (Article 21), among other things; as well as the **Regulation on the rights of passengers when travelling by sea and inland waterway**⁹, and the **Regulation on the rights of passengers in bus and**

³ A full overview of the adopted legal acts and soft measures can be found in Section 2.1 Accessibility, in Arsenjeva, J. (2019). Annotated Review of European Union Law and Policy with Reference to Disability (prepared under the direction of L. Waddington, on behalf of the Academic Network of European Disability Experts-ANED). The information provided in this paper has been updated.

⁴ Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement.

⁵ Directive 2015/2366 of the European Parliament and of the Council of 25 November 2015 on payment services in the internal market.

⁶ Directive (EU) 2019/882 of the European Parliament and of the Council of 17 April 2019 on the accessibility requirements for products and services.

⁷ Regulation (EC) No 1107/2006 of the European Parliament and of the Council of 5 July 2006 concerning the rights of disabled persons and persons with reduced mobility when travelling by air.

⁸ Regulation (EU) 2021/782 of the European Parliament and of the Council of 29 April 2021 on rail passengers’ rights and obligations (recast).

⁹ Regulation (EU) No 1177/2010 of the European Parliament and of the Council of 24 November 2010 concerning the rights of passengers when travelling by sea and inland waterway and amending Regulation (EC) No 2006/2004.

coach transport¹⁰, both adopted in 2011: Regulation No 1177/2010 includes provisions on assistance and non-discrimination (Articles 1, 10, 11) and the right to transport for persons with disabilities (Article 7), and Regulation No 181/2011 similarly includes provisions on assistance and non-discrimination (Articles 1, 11, 13, 14), and the right to transport (Article 9); as well as the **Directive on the interoperability of the rail system within the European Union**¹¹, adopted in 2016, establishing accessibility as ‘an essential requirement for the interoperability of the Union rail system’ (Recital 29); **3) information and communication technologies (ICTs)- the Directive on harmonisation of the laws of the Member States relating to the making available on the market of radio equipment**¹², adopted in 2014, which requires that ‘radio equipment supports certain features in order to facilitate its use by users with a disability’ (Article 3); **Directive 2009/136/EC (‘Users’ Rights’ Directive)**¹³, which stipulates access for disabled end-users to emergency services (Article 26), among other provisions to ensure the rights of persons with disabilities as end-users; the **Directive establishing a European Electronic Communications Code**¹⁴, which stipulates equivalent access for persons with disabilities and envisions consultations of end-users, in particular consumers, and end-users with disabilities (Article 24); the **Web Accessibility Directive**¹⁵, adopted in 2016, stipulating accessible websites and mobile applications of public sector bodies (Article 1), and the **Audiovisual Media Services Directive**¹⁶ adopted in 2018, to ensure the accessibility of audiovisual content for persons with disabilities, as well as the access to emergency information in the case of natural disasters, made public via audiovisual media services (Article 7); **4) standardisation – the Regulation on European standardisation**¹⁷, which provides a legal basis for European standards for products and services, and ensures that the European standardisation system takes into account the UNCRPD. The European Commission has also adopted common accessibility standards: the ‘Design for All’ approach¹⁸ was published in 2019. This sets out requirements for design, development and provision of products, goods and services accessible to a wide range of users, including persons with disabilities. These accessibility standards play an important role in guiding the private and the public sector when implementing the EAA.

In addition to all primary and secondary legislation, the current **European Strategy for the Rights of Persons with Disabilities 2021-2030** builds on the UNCRPD (Article 9), to ensure

¹⁰ Regulation (EU) No 181/2011 of the European Parliament and of the Council of 16 February 2011 concerning the rights of passengers in bus and coach transport and amending Regulation (EC) No 2006/2004.

¹¹ Directive (EU) 2016/797 of the European Parliament and of the Council of 11 May 2016 on the interoperability of the rail system within the European Union (recast).

¹² Directive 2014/53/EU of the European Parliament and of the Council of 16 April 2014 on the harmonisation of the laws of the Member States relating to the making available on the market of radio equipment.

¹³ Directive 2009/136/EC of the European Parliament and of the Council of 25 November 2009 amending Directive 2002/22/EC on universal service and users’ rights relating to electronic communications networks and services, Directive 2002/58/EC concerning the processing of personal data and the protection of privacy in the electronic communications sector and Regulation (EC) No 2006/2004 on cooperation between national authorities responsible for the enforcement of consumer protection laws.

¹⁴ Directive (EU) 2018/1972 of the European Parliament and of the Council of 11 December 2018 establishing the European Electronic Communications Code (Recast).

¹⁵ Directive (EU) 2016/2102 of the European Parliament and of the Council of 26 October 2016 on the accessibility of the websites and mobile applications of public sector bodies.

¹⁶ Directive (EU) 2018/1808 of the European Parliament and of the Council of 14 November 2018 amending Directive 2010/13/EU on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive) in view of changing market realities.

¹⁷ Regulation (EU) No 1025/2012 of the European Parliament and of the Council on European Standardisation.

¹⁸ EN 17161:2019 ‘Design for All – Accessibility following a Design for All approach in products, goods and services – Extending the range of users.’

that action is taken by the EU Member States in various domains with regard to accessibility. In the latter, the States Parties are called on to take a number of actions to achieve accessibility for persons with disabilities, in addition to eliminating the barriers in build and digital infrastructure (Article 9(1)), such as developing and monitoring the implementation of minimum accessibility standards of public spaces and services, providing live assistance when such is needed to access such spaces, building on training on accessibility for different stakeholders, promoting access to ICTs and the Internet for persons with disabilities, and ensuring that accessibility standards are engrained in new developments (Article 9(2)).

In a similar vein, the current EU Strategy envisages guidelines on accessibility standards (e.g. for the public procurement Directives in 2021); building up expertise (e.g. training for public procurers to buy accessible equipment); monitoring and evaluating the implementation of minimum accessibility standards (e.g. review of the passenger rights regulatory framework in 2021; evaluation of the Web Accessibility Directive in 2022), among others. Furthermore, one of the EU Strategy flagship initiatives – the **European Accessibility Resource Centre** – is specifically designed to help the EU Member States to build up knowledge, exchange good practices, and develop tools and standards on the transversal application of the accessibility requirements.

In addition to legislative and policy measures, initiatives such as the **Access City Award** (since 2010) and the **Global Accessibility Awareness Day** raise awareness of the importance of an accessible and inclusive environment.

1.2 Free movement of persons with disabilities in the EU

People with disabilities enjoy the same rights of movement in the EU as every other EU citizen, pursuant to **Article 21 (1) TFEU** and the **EU Charter of Fundamental Rights (Article 45)**. They should be able to move in the EU to study, to look for a job, to work and reside in another EU Member State as job seekers, workers or family members of workers, as well as to enjoy equal treatment with nationals in access to employment. These principles apply to all EU citizens, pertain to primary and secondary legislation, as well as to the CJEU case law.

Invalidity benefits¹⁹ for employed people and their families moving in the EU were arranged as part of one of the earliest binding legal measures on social security coordination for employees in the EU, pursuant to **Regulation (EEC) No 1408/71**²⁰ and later on with **Regulation (EC) No 883/2004**²¹. However, these legal texts only relate to social security benefits. The sometimes thin line between social security benefits covered by these regulations, social assistance benefits and other non-contributory benefits has been watered down in some of the CJEU case law on the matter. Currently, people with disabilities are largely not able to export their benefits to another EU Member State, where they seek or are to move for the purpose of education or employment.

¹⁹ ‘Invalidity benefits’ was the term used back in the 1970s.

²⁰ Regulation (EEC) No 1408/71 of the Council of 14 June 1971 on the application of social security schemes to employed persons and their families moving within the Community.

²¹ Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems.

Concerning voluntary activities and participation in educational and training mobility programmes, **Regulation (EU) 2021/888**²² and **Regulation (EU) 2021/817**²³ establish equal treatment and additional instruments to encourage the participation of young people with disabilities in multicultural cross-country exchange programmes, respectively in the European Solidarity Corps²⁴ and the Erasmus+ programme²⁵. Nevertheless, the same concern about exportability of personal assistance and benefits remains regarding those activities (see Section 2.2).

The current **European Strategy for the Rights of Persons with Disabilities 2021-2030** recognises the potential impediments for persons with disabilities to access services, including sign language interpreting, and benefits linked to the recognition of disability status across borders in the EU. It includes a commitment to take further action, in collaboration between the Commission and the Member States, ‘to expand the scope of the mutual recognition of disability status in areas such as labour mobility and benefits related to conditions of service provision’²⁶.

As part of implementing this commitment, one of the flagship initiatives of the current EU Strategy – the **European Disability Card** – is already in progress. Since September 2023, the Proposal for a Directive of the European Parliament and of the Council establishing the European Disability Card and the European Parking Card for persons with disabilities is in the process of discussions within the Council and its preparatory bodies. It is an initiative which has been long awaited by the disability movement (since its proposal by the Belgian Disability Forum in 2008 and the start of the EDF campaign in 2011) and recognized by them as ‘an essential initiative to expand freedom of movement’²⁷. Serving as a proof of disability status across all EU countries in short stays, the European Disability Card will grant cardholders access to special conditions and preferential treatment from both public and private entities equal to that provided to people with disabilities in the country of visit.²⁸ Thus, it should decrease the burden for people with disabilities, at least during short stays, by allowing them to enjoy reduced fees, free and/or priority entry, support services (such as access to braille and

²² Regulation (EU) 2021/888 of the European Parliament and of the Council of 20 May 2021 establishing the European Solidarity Corps Programme and repealing Regulations (EU) 2018/1475 and (EU) No 375/2014.

²³ Regulation (EU) 2021/817 of the European Parliament and of the Council of 20 May 2021 establishing Erasmus+: the Union Programme for education and training, youth and sport and repealing Regulation (EU) No 1288/2013.

²⁴ ‘Particular attention should be paid to ensuring that solidarity activities are accessible to all young people, and in particular young people with fewer opportunities. Special measures should be put in place to promote social inclusion and, in particular, the participation of disadvantaged young people, **including the provision of reasonable accommodation to enable people with disabilities** to effectively participate in solidarity activities on an equal basis with others in accordance with Article 27 of the UN Convention on the Rights of Persons with Disabilities and with Council Directive 2000/78/EC’ - Recital 43.

²⁵ ‘In some cases, people with fewer opportunities are less likely to participate in the Programme for financial reasons, whether because of their economic situation or because of the higher participation costs that their specific situation generates, as is often the case for **people with disabilities. In such cases, their participation could be facilitated with targeted financial support.**’ - Recital 19.

²⁶ European Commission. (2021). Union of Equality: Strategy for the Rights of Persons with Disabilities 2021-2030.

²⁷ European Disability Forum. (21.08.2023). #DisabilityParliament: Free movement and full participation in the European Union. Available at: <https://www.edf-feph.org/disabilityparliament-free-movement-and-full-participation-in-the-european-union/>

²⁸ European Commission. (06.09.2023). Proposal for a Directive of the European Parliament and of the Council establishing the European Disability Card and the European Parking Card for persons with disabilities. 2023/0311 (COD). Recital 21.

audio guides), mobility aids, among others.²⁹ The suggested improvements to the **European Parking Card** for persons with disabilities under the same Directive are to introduce a binding and standardised card model, and to replace the national and the previous European parking cards for persons with disabilities with the European Parking Card.³⁰

2. Remaining gaps in accessibility and free movement of persons with disabilities in the EU

2.1 Accessibility

Much progress has been made in EU law and policy, resulting in a more inclusive and accessible EU. However, the varying accessibility requirements across the Member States mean that persons with disabilities can still not access, on an equal basis with others, the built and digital environment, information and communication technologies, transport or infrastructure. In the section below, we discuss some of the remaining gaps regarding the European Accessibility Act, the European Standards and the digital world, including artificial intelligence.

European Accessibility Act

In the area of accessibility, one of the major milestones has been the adoption and implementation of the European Accessibility Act. Before the EAA, there was no ‘EU-wide coordination of national legislation regarding the accessibility of products and services’³¹, which has led to a lack of practical guidance on common standards of accessibility, and fragmentation of the market. Its implementation is expected to benefit both businesses (i.e. via common rules on accessibility, improving cross-border trading, more market opportunities for accessible products and services) and persons with disabilities (i.e. more accessible services and products provided at competitive prices, and fewer barriers in public spaces).

Nevertheless, while the Act represents an important step forward towards achieving accessibility for persons with disabilities, it has also been criticised by the disability movement for its limited scope.³² It takes Article 114 TFEU as a legal basis, with ‘the main purpose to harmonize Member States’ legislation concerning accessibility in order to improve the functioning of the internal market’³³; while it would have been important to also include Article 26 TFEU, thus ‘enabling the EU to set more ambitious targets’, and, making it possible to include freedom of movement for people in the scope of application of the Act.³⁴ The outcome is that the Act mainly focuses on enhancing accessibility of certain products and services, including digital ones.³⁵ The European Disability Forum outlines that as a horizontal act on accessibility, it does not cover sufficiently transport and built infrastructure, including urban transport as well as household appliances,³⁶ nor does it facilitate freedom of movement across

²⁹ Ibid. Recital 24.

³⁰ Ibid.

³¹ European Commission. (02.12.2015). Commission Staff Working Document Executive Summary of the Impact Assessment Accompanying the document Proposal for a Directive of the European Parliament and of the Council on the approximation of the laws, regulations and administrative provisions of the Member States as regards the accessibility requirements for products and services. SWD(2015) 265 final.

³² European Network of Independent Living. ENIL position on the proposal for a European Accessibility Act.

³³ Ibid.

³⁴ Ibid.

³⁵ Computers and operating systems, ATMs, ticketing and check-in machines, smartphones, TV equipment related to digital television services, telephony services and related equipment, access to audio-visual media services such as television broadcast and related consumer equipment, services related to air, bus, rail and waterborne passenger transport, banking services, e-books, e-commerce

³⁶ European Disability Forum. (February, 2022). Alternative report for the second review of the EU by the CRPD Committee.

the EU.³⁷ For example, if the service is related to urban, suburban and regional transport or is provided by a microenterprise, it is not subject to the accessibility obligations of the Act. Exemptions are also allowed regarding the deadlines for making certain goods and services accessible. For example, the Act allows the single European emergency number '112' to remain inaccessible until the year 2027. Self-service terminals can also remain inaccessible until 2045.³⁸

To date, there have been some delays in implementing the EAA across the EU Member States. According to a report of the European Court of Auditors, 24 out of 27 Member States received formal notice for non-communication of their transposition measures, while in 2023 the other three (Denmark, Italy and Estonia) received a formal notice due to incomplete transposition.³⁹

Furthermore, the UN Committee on the Rights of Persons with Disabilities has raised concerns regarding adoption and implementation of accessibility legislation in several EU Member States. For example, in its 2023 review of Germany, it highlights 'the narrow implementation of the European Accessibility Act, confined to the mandatory obligations and omitting important areas such as health services, educational goods and services, household appliances and the built environment, and the corresponding widespread inaccessibility of services rendered by public and private entities, including services listed in article 2 of the Act'.⁴⁰ In its 2023 review of Austria, the Committee recommended that the country 'enact legislation and set standards for the accessibility of services, goods and infrastructure not covered by the European Accessibility Act, and implement them, including by allocating sufficient budgets'.⁴¹ In its 2022 review of Hungary, the Committee recommended 'to adopt a comprehensive national strategy and implementation plan with clear time frames and adequate budget allocations for developing accessibility for built environments, public services, public transportation, information and communication'.⁴²

European standards

European standards play a key role in making the services and products described in the EAA accessible for persons with disabilities. However, representative organisations of persons with disabilities, and consumer organisations such as ANEC – the European consumer voice in standardisation – have raised concerns, as the process of developing these standards is neither sufficiently accessible and transparent, nor does it involve these key stakeholders. Civil society organisations have been calling for Regulation 1025/2012 on European Standardisation⁴³ to be revised to include these important requirements of accessibility, inclusiveness and involvement.

³⁷ Charitakis, S. (2018). Access denied: The Role of the European Union in Ensuring Accessibility under the United Nations Convention on the Rights of Persons with Disabilities; Arsenjeva, J. (2019). Annotated Review of European Union Law and Policy with Reference to Disability (prepared under the direction of L. Waddington, on behalf of the Academic Network of European Disability Experts-ANED).

³⁸ European Disability Forum. (2019). EDF analysis of the European Accessibility Act.

³⁹ European Court of Auditors. (2023). Special Report 'Supporting persons with disabilities- practical impact of EU's action is limited'.

⁴⁰ CRPD Committee. (2023). Concluding observations on the combined second and third periodic reports of Germany. Para. 19.

⁴¹ CRPD Committee. (2023). Concluding observations on the combined second and third reports of Austria. Para. 27.

⁴² CRPD Committee. (2022). Concluding observations on the combined second and third periodic reports of Hungary.

⁴³ Regulation (EU) No 1025/2012 of the European Parliament and of the Council of 25 October 2012 on European standardisation.

Another shortcoming of these standards is their lack of binding force.⁴⁴ Standards are voluntary measures and Member States are not obliged to implement them when developing products and services, as described by the EAA. The European standard on the accessibility and usability of the built environment EN 17210:2021 is a positive step forward, but will not ensure that all relevant infrastructure becomes fully accessible across the EU, as its implementation is not mandatory for the Member States.

The digital world and artificial intelligence

Another example of EU policy regards e-accessibility and digital equality, with the adoption of the EU Digital Services Act⁴⁵ and the Digital Markets Act⁴⁶. These Acts will require digital platforms and services, such as internet access providers, cloud services, online marketplaces, app stores and social media, to be accessible for persons with disabilities. Currently negotiations are ongoing regarding the EU Artificial Intelligence Act⁴⁷. However, neither the existing Acts nor the proposed Artificial Intelligence Act ensure full accessibility for persons with disabilities to digital technologies, including Artificial Intelligence (AI). The Digital Services Act and the Digital Markets Act do not require companies that provide social media or internet search engines, for example, to make these platforms accessible to persons with disabilities. Companies can voluntarily decide whether or not they wish to implement the EU Web Accessibility Directive and the European Accessibility Act.⁴⁸ Regarding AI, the Act currently does not require AI-related information and user guides to comply with the European Accessibility Act.⁴⁹ Furthermore, the Europe's Digital Decade - EU targets for a digital world by 2030 do not sufficiently include accessibility of public online services. These gaps continue to hinder the full participation of persons with disabilities in the digital world.

2.2 Free movement of persons with disabilities in the EU

In addition to the barriers that are being addressed by the EU with regard to the accessibility legislation and standardisation (see Section 1.1), one of the main impediments to freedom of movement for persons with disabilities is the **lack of mutual recognition of disability status** in the EU. Disability is defined, measured and assessed differently in each EU Member State, although the UN Convention on the Rights of Persons with Disabilities (UNCRPD) describes the concept of disability in its Article 1. Views of who counts as a person with disability and who is entitled to social protection and assistance allowances vary across the EU, and sometimes even between regions.⁵⁰ A 2022 Study by the European Parliament's PETI Committee points out that the 'assessments from one Member State are rarely recognised in another. This lack of recognition, and the need for comprehensive reassessment of disability

⁴⁴ European Disability Forum. (2021). Position on the European Commission draft standardisation request for the European Accessibility Act.

⁴⁵ Regulation (EU) 2022/2065 of the European Parliament and of the Council of 19 October 2022 on a Single Market for Digital Services and amending Directive 2000/31/EC.

⁴⁶ Regulation (EU) 2022/1925 of the European Parliament and of the Council of 14 September 2022 on contestable and fair markets in the digital sector and amending Directives (EU) 2019/1937 and (EU) 2020/1828.

⁴⁷ Proposal for a Regulation of the European Parliament and of the Council laying down harmonised rules on artificial intelligence (Artificial Intelligence Act) and amending certain Union legislative acts 2021/0106 (COD).

⁴⁸ European Disability Forum. (2022). Digital Services Act fails to ensure accessibility for persons with disabilities. EDF calls on the EU to rectify this political agreement.

⁴⁹ European Disability Forum. (2023). Resolution on the EU Artificial intelligence Act for the inclusion of persons with disabilities.

⁵⁰ European Court of Auditors. (2023). Special Report 'Supporting persons with disabilities- practical impact of EU's action is limited'.

status when moving between Member States, presents a barrier to freedom of movement.⁵¹ As a result, obtaining support as a person with disabilities in another EU country is a long and difficult administrative process, and hampers the right of persons with disabilities to move freely to another Member State. So far, it has been a hindrance to both longer stays in another EU country to reside, work or study, as well as to short trips and stays for the purposes of tourism, business or work.⁵²

Some of the difficulties persons with disabilities face when travelling to another EU Member State are problems accessing services, including sign language interpretation, and obtaining other assistance and/or benefits for persons with disabilities, when they move to another EU country to study and work.⁵³ The same is true for families of persons with disabilities, who face barriers in obtaining support and services when moving with their relative with disabilities to another EU country. Even when persons with disabilities wish to move to another Member State temporarily, they are not allowed to transfer their disability allowance.⁵⁴

The current negotiations on the European Disability Card are aimed at facilitating short trips and stays for persons with disabilities around the EU, as this Card will allow persons with disabilities to receive the same associated special conditions or preferential treatment as nationals in a wide range of services, including culture, leisure, sport, transport or commercial discounts, where such are provided to people with disabilities.⁵⁵ However, the Card will not allow persons with disabilities to transfer their personal assistance, disability allowance and benefits to another EU Member State if they wish to relocate to live, study and work there.

In this regard, the UN Committee on the Rights of Persons with Disabilities repeatedly highlighted to the European countries, during its review, that disability assessment – both regarding the definitions of disability and the assessment processes used – is not in line with the CRPD.⁵⁶ The recent report from the European Court of Auditors recommends that the EU ‘work towards mutual recognition of disability status in the EU, respecting the subsidiarity and proportionality principles.’⁵⁷ In 2022, an earlier report commissioned by the European Parliament’s Policy Department for Citizens’ Rights and Constitutional Affairs at the request of the Committee on Petitions (PETI)⁵⁸ made a similar recommendation.

⁵¹ Priestley, M. (2022). *Disability assessment, mutual recognition and the EU Disability Card-Progress and opportunities*. Brussels, European Parliament – PETI Committee: 10.

⁵² European Economic and Social Committee. (2023). European Disability Card, SOC/765.

⁵³ European Disability Forum. (2023). European Disability Card and European Parking Card. EDF analysis of the Commission proposal.

⁵⁴ European Disability Forum. (February 2022). Social Protection and the Welfare State: what the EU can do to support persons with disabilities.

⁵⁵ The legal bases for the European Disability Card Commission proposal: Article 91 TFEU (transport and parking facilities), Article 21(2) TFEU (the right of EU citizens to move and reside freely within the territory of the Member States), Article 53(1) TFEU and Article 62 TFEU (services provided for remuneration in the internal market). See European Commission. (06.09.2023). Proposal for a Directive of the European Parliament and of the Council establishing the European Disability Card and the European Parking Card for persons with disabilities. 2023/0311 (COD).

⁵⁶ Waddington, L., & Priestley, M. (2021). A human rights approach to disability assessment. *Journal of International and Comparative Social Policy*, 37(1), 1-15

⁵⁷ European Court of Auditors. (2023). Special Report ‘Supporting persons with disabilities- practical impact of EU’s action is limited’.

⁵⁸ Priestley, M. (2022). *Disability assessment, mutual recognition and the EU Disability Card-Progress and opportunities*. Brussels, European Parliament – PETI Committee: 11.

3. Steps forward: points for discussion

In addition to further developing the legal and policy framework, policy makers should take actions to foster the development of expertise on accessibility, mutual learning and peer review practices among the EU Member States, as well as mainstreaming disability rights in all policies concerning accessibility of the digital and built environment.

Recommendations and future practices regarding accessibility and free movement should draw on the needs and everyday experiences of people with disabilities, by involving them and their representative organisations, along with the other key stakeholders, such as experts, national officials, social partners, businesses, in the processes of developing common standards to remove barriers for people with disabilities in the digital and physical world.

Some more concrete recommendations, which could serve as a starting point for the discussions at the workshop, include:

- Promote the adoption of legally binding measures to ensure the accessibility of the built environment, transport, products and services. At Member State level, accessibility should be mainstreamed into all relevant laws, policies and actions.
- Revise EU Regulation 1025/2012 on standardisation and ensure the active involvement of persons with disabilities and their representative organisations, as well as other relevant stakeholders, such as civil society and industry representatives.
- Include the rights of persons with disabilities in all EU legal and policy efforts regarding digitalisation and Artificial Intelligence, including in the EU digital targets for 2030. Persons with disabilities should be guaranteed equal access to digital technologies, Artificial Intelligence and other emerging technologies, and should be legally protected on an equal footing with others.
- Promote the mutual recognition of disability status across the EU, so that persons with disabilities can move freely across the EU, both for short and long-term travel and for residence in another EU Member State, to seek employment, accept a job or study. One step forward could be recommendations made as part of the European Semester process to the EU Member States, asking them to make changes to their disability assessment practices.