



European Commission

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EU Disability Card – Public consultation

Statement by the Finnish Human Rights Centre

This document contains observations by the Finnish Human Rights Centre (HRC¹, NHRI) to the public consultation on the EU Disability Card.

The Finnish Human Rights Centre commends the Commission on public consultation, which allows many different actors to give their input. The Finnish Human Rights Centre statement focuses on three issues regarding the risk of harmonized definition for a person with a disability, the stakes regarding who is eligible for reasonable accommodations, and whether the impact of the EU disability card would be significant in fulfilling the right to free movement for persons with disabilities in full.

The risk of the harmonized definition of disability

1. When defining disability, the UNCRPD highlights the significance of the barriers in society. According to the UNCRPD, *Persons with disabilities include those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others.*
2. In Finland, the law acknowledges this and whether or not a person is eligible for different kind of disability services, such as personal assistance, is assessed based on needs. The law acknowledges that the needs of the person may vary due to different factors: for example, whether or not a person is in a familiar or strange place.
3. The disability policy in Finland is based on the idea of a welfare state, where all citizens have an equal right to participate in society and where the state is responsible for making this possible. However, in many European countries, this is not a reality yet.

¹ The HRC forms the National Human Rights Institution (NHRI), alongside with its pluralistic 39-member Human Rights Delegation and the Parliamentary Ombudsman. The HRC represents the NHRI in international NHRI cooperation and other international and European cooperation in human rights.

4. We feel strongly that the EU Commission should not harmonize the definition of disability at the moment. Harmonizing the disability definition might lead to a more mechanistic and diagnose-based approach to disability. It would be especially harmful if the common definition would be then a basis for disability services granted by the authorities.
5. If the definition of disability were harmonized in the EU countries, it might mean a step back for the rights of persons with disabilities in Nordic countries such as Finland. In the long run, the definition that is linked to the barriers that society presents should serve as a model for other EU countries.

The free movement of persons with disabilities

6. The idea of the EU disability card is to make the free movement of all EU citizens possible. However, it is unclear how much the EU disability card would de facto enhance the free movement of persons with disabilities.
7. According to several studies, persons with disabilities are at greater risk of poverty and social exclusion than persons without disabilities in the EU. Traveling in other EU countries takes funds many persons with disabilities don't have. Hence, people with disabilities that are traveling probably already have the funds to pay the total price for different services, such as amusement parks or museums. From this perspective, we don't see how discounts or free entries could considerably promote the free movement of persons with disabilities whether they are only visiting or looking to work in another country in the EU.
8. Human Rights Centre wants to highlight the importance of strengthening the implementation of the right to work and the right to social security for persons with disabilities. Work and social security lessen the risk of poverty and social exclusion and makes it more possible for persons with disabilities to enjoy in full their right to free movement.
9. Probably, one of the biggest obstacles for persons with disabilities traveling in Europe have, are the same as in their home countries: the general lack of accessibility. We would rather see the EU promote the free movement of persons with disabilities by further strengthening its work in accessibility and reasonable accommodations. The recently adopted directive on the accessibility requirement for products and services is a good example of legislation that makes different services more accessible for persons with disabilities regardless of where they are in Europe.
10. We acknowledge that the disability card wouldn't be without benefits, especially for persons with invisible disabilities who might otherwise have difficulties proving that they are entitled to use a disabled-toilet, for example.
11. We also commend that the EU disability card project aims to eliminate the practices allowing different kinds of treatment of persons with disabilities with different nationalities.

The duty to make reasonable accommodations

12. It is not clearly defined whether or not the EU disability card would cover reasonable accommodations. General comment two on accessibility by the UN Committee on the Rights of Persons with Disabilities states that the duty to offer reasonable accommodations is enforceable when a person with an impairment needs it. The reasonable accommodation offers individual justice and doesn't need to fall in the scope of general accessibility standards.
13. If there is a link between the EU disability card and the enforcement of reasonable accommodations, there is also a risk that service providers may not be willing to perform reasonable accommodations if the person in question does not have a disability card which might not be in alignment with UCRPD.
14. The questionnaire asks whether the lack of publicly available information on preferential conditions that might be available based on disability affects the freedom of movement. We agree that more information should be available on the rights of persons with disabilities. However, it shouldn't be limited to preferential conditions but also to the rights and covering the right to reasonable accommodation.

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