

# **DRAFT COMPROMISE AMENDMENTS**

## **1-5**

**Proposed by**

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Extending Directive [XXXX] to third country nationals legally residing in a  
Member State

Proposal for a directive

(COM(2023)0698 – C9-0398/2023 – 2023/0393(COD))

## **COMPROMISE 1 - Title, Recitals 1-3(new)**

**AMs covered:** AM1 (Co-Rapporteurs), AMs 14-15 (The Left); 16 (Renew), AM2 (Co-Rapporteurs), 17 (The Left); 19 (Renew), 18 (S&D), 22 (The Left), 23 (The Left), 24 (S&D), AM3 (Co-Rapporteurs), 26 (The Left), 27 (S&D), 28 (The Left), 29 (EPP), 30 (Renew), 46 (S&D); AM68(EPP)

**AMs falling:** 20 (EPP), 21 ECR, 31 (ECR)

Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL extending Directive [XXXX] to third country nationals legally residing in a Member State

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 79(2), point b thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee<sup>[1]</sup>,

Having regard to the opinion of the Committee of the Regions<sup>[2]</sup>,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) In order to facilitate the **right to freedom of movement of** persons with disabilities when travelling to or visiting another Member State for a short period, Directive .... /... [proposal for a Directive]<sup>[3]</sup> established the framework, rules and common conditions, including a common standardised **and accessible format**, for a European Disability Card as proof of recognised disability status for accessing **and benefitting on equal terms and conditions from any** special conditions or preferential treatment offered by private operators or public authorities in a wide variety of services, activities and facilities, including when not provided for remuneration, and for a European Parking Card for persons with disabilities, as proof of their recognised right to **any** parking conditions and facilities reserved for persons with disabilities<sup>[4]</sup> **in a Member State other than that in which they are residing**.
- (2) To **ensure that** Member States respect **and fulfil their** equal treatment, **inclusion and** non-discrimination obligations **under international, Union and national law** vis-à-vis persons with disabilities who are third-country nationals legally residing in their

territory and not falling within the scope of Directive [XXXX], and guarantee the recognition of their disability status across Member States, thus facilitating the exercise of their rights to move or travel to other Member States in accordance with Union law and ensuring effective **and full** participation and inclusion in society of persons with disabilities who are third-country nationals on an equal basis with Union citizens, it is necessary to extend the rules, rights and obligations laid down in Directive../.... to persons with disabilities who are third country nationals legally residing in the territory of a Member State, whose disability status has been recognised by that Member State, and who are entitled to move or travel to other Member States in accordance with Union law.

***(2a new) In accordance with Article 67(2) of the Treaty of the Functioning of the European Union (TFEU), stateless persons should be treated as third-country nationals for the purpose of this Directive. (AMs 14-15 (The Left))***

***(2b new) Third country nationals who are asylum seekers legally residing in the territory of a Member State, whose disability status has been recognised by that Member State, and who are entitled to move or travel to other Member States in accordance with Union law are considered covered by the application of this Directive. (EPP AM 68)***

- (3) Therefore, Member States **should** take **all** the necessary measures to ensure that the rules governing the eligibility, issuance, renewal or withdrawal **and appeal thereof**, mutual recognition and data protection of the European Disability Card and the European Parking Card for persons with disabilities as proof respectively of a disability status or **entitlement to specific services based on a disability** of a right to parking conditions and facilities reserved for persons with disabilities, as well as the rights for beneficiaries, including access on equal terms and conditions to any special conditions or preferential treatment with respect to services, activities or facilities, including when provided not for remuneration, or parking conditions and facilities offered to or reserved for persons with disabilities or person(s) accompanying or assisting them including their personal assistant(s), **regardless of their nationality**, or **assistance animals such as guide dogs or assistance dogs**, set out in Directive ../...., equally apply to third country nationals legally residing in the Union and who are entitled to move or travel to other Member States in accordance with Union law.

***(3new) The issuance, and renewal of the European Disability Card should be free of charge; reissuance of the card in cases of loss or damage may be subject to a fee. The issuance and renewal of the European Parking Card for persons with disabilities may either be free of charge or subject to a fee. Both the fee to be possibly charged for reissuance of the European Disability Card in case of loss or damage and the fee to be possibly charged for the issuance and renewal of the European Parking Card for persons with disabilities should not exceed the administrative costs concerned nor prevent or discourage persons with disabilities from acquiring or re-acquiring these cards. Where Member States issue the European Disability Card directly, they should seek the consent of the person concerned. Third-country nationals with disabilities should be duly***

*informed, in a language they can understand about the possibility to apply for the European Disability Card where it is not issued directly.*

## **COMPROMISE 2 - Recitals 3a - 3h**

**AMs covered:** AM4 (Co- Rapporteurs), 32 (The Left), 33 (The Left), 5 (Co- Rapporteurs), 7 (Co-Rapporteurs), 25 (Renew), 34 (EPP), 35 (S&D), 36 (EPP), 37A (S&D), 38 (S&D), 39 B (The Left), 44 B (The Left), 40 (The Left), 41 (S&D), 42 (S&D), 43 (The Left), 45 (S&D), 47 (The Left)

**AMs falling: -**

No vote: AM6 Co-Rapporteurs

Separate vote: AM 39 A, AM 44 A (The Left, identical)

**(3 a) *A European Disability Card can be required as proof of the disability status in order to access on equal terms and conditions any special conditions, or preferential treatment with respect to services, activities or facilities, including when provided not for remuneration, offered to or reserved for persons with disabilities or persons accompanying or assisting them, including their personal assistants, under the scope of this Directive. However, a European Disability Card should not be required as proof of disability in order to access or exercise any rights provided for in other Union or national law, including those granting specific benefits, special conditions, or preferential treatment not falling under the scope of this Directive. Where a certificate, a disability card or any other formal document for persons with disabilities may be required in accordance with Union law, the European Disability Card should also not be required as proof of disability, unless a Member State decides to merge their national certificate, disability card or any other formal document for persons with disabilities with the European Disability Card. (AMs 5, 40, 45)***

**(3 b) *Personal assistants accompany or assist persons with disabilities or carry out activities of daily living, if need be in the framework of a contractual relationship, in accordance with national law and practice, with the objective of encouraging personal autonomy, contributing to strengthen the integration of persons with disabilities into society, facilitating community life and promoting the independent living. Personal assistants, regardless of their nationality, should be able to accompany or assist persons with disabilities using the European Disability Card or the European Parking Card for persons with disabilities while traveling to or visiting a Member State other than that of which they are a resident, provided that they enjoy a right to move across the Union under the applicable Union and national law. Persons accompanying or assisting persons***

***with disabilities are designated by the persons with disabilities themselves or by their legal guardians and can change on an ad hoc basis depending on the requirements of the persons with disabilities. (AMs 7, 35, 43, 47)***

- (3 c) Member States should ensure that adequate and effective means exist to ensure compliance with this Directive and should therefore establish appropriate remedies, including checks on compliance and administrative or judicial procedures, to guarantee that persons with disabilities, persons accompanying or assisting them including personal assistants, as well as public bodies such as equality bodies, private associations, organisations, in particular representative organisations of persons with disabilities, or other legal entities which have a legitimate interest in ensuring that the provisions of this amending Directive are complied with may take action on behalf of or in support of a person with disabilities, with his or her approval, in accordance with national law and procedures. Member States should ensure that those provisions take into account Article 13 and the principle of reasonable accommodation of the UNCRPD. (AM41 and alignment)***
- (3 d) Member States, with the support of the Commission, should take the necessary steps to prevent any risk of forgery or fraud in relation to the European Disability Card or the European Parking Card for persons with disabilities and should actively combat fraudulent issuance, use and forgery of these cards. Member States should exchange information on such cases to ensure mutual trust between Member States as the mutual recognition of disability status is the cornerstone of the European Disability Card. Member States should ensure that any measures taken to prevent the risk of forgery or fraud should respect the rights of persons with disabilities and should not lead into their stigmatisation. Member States should consult persons with disabilities and their representative organisations in the design and implementation of the measures. (AM 34 EPP)***
- (3 e) All relevant information with respect to the conditions, rules, practices, and procedures applicable to obtain the European Disability Card and/or the European Parking Card for persons with disabilities and its subsequent use should be made publicly available by Member States in a clear, comprehensive, user-friendly manner and accessible formats for persons with disabilities, respecting the relevant accessibility requirements for services established in Annex I to Directive (EU) 2019/882 including sign language, braille, assistive formats and audio/audio features ensuring that all third-country nationals legally residing in the territory of Member States are aware of their rights and the application process. Member States should aim to ensure the information does not exceed a level of complexity above level B1 (intermediate) of the Council of Europe's Common European Framework of Reference for Languages. (AM 36 EPP)***
- (3 f) Third-country nationals with disabilities, in particular women and girls, are at a heightened risk of being subject to intersectional discrimination. The UNCRPD states that women and girls, with disabilities are subject to multiple forms of discrimination, and therefore State Parties should take adequate measures to***

***ensure the full and equal enjoyment by them of all human rights and fundamental freedoms. It also recognises the difficult conditions faced by persons with disabilities who are subject to multiple or aggravated forms of discrimination on the basis of race, colour, sex, language, religion, political or other opinion, national, ethnic, indigenous or social origin, property, birth, age or other status<sup>[2]</sup>. (AMs 32, 33 The Left; 38 & 42 S&D)***

***(3 g) The UNCRPD recognises the principle of gender equality, that women and girls with disabilities are often at greater risk and subject to multiple and intersectional discrimination and that State Parties to the UNCRPD should take adequate measures to ensure the full and equal enjoyment by them of all human rights and fundamental freedoms. It is imperative to recognize that women and girls with disabilities are affected by discrimination in many areas of life<sup>[4]</sup>. The European Disability Card and European Parking Card for persons with disabilities must therefore have a clear gender equality perspective and contribute to improving free movement, especially for women and girls with disabilities. The Convention on Preventing and Combating Violence against Women and Domestic Violence, to which the Union is party, should guide the establishment and implementation of the European Disability Card and the European Parking Card for persons with disabilities in that context.***

***(3 h) The Commission should issue a report including an analysis of specific situations of disadvantage resulting from intersectional discrimination, which is understood as discrimination based on a combination of disability and any other grounds protected under Directives 79/7/EEC, 2000/43/EC, 2000/78/EC or 2004/113/EC, as was well as other grounds referred to in recital 3f, with a particular focus on women and girls with disabilities.***

### **COMPROMISE 2a - To be voted as addition to 3f**

**AMs covered: 37B (S&D)**

**AMs falling:**

*Additional text to recital 3f(new):*

***Gender, gender expression, gender identity, sexual orientation or sex characteristics***

### **COMPROMISE 3 - Recitals 4-8a**

**AMs covered: AM8A Co-Rapporteurs, AM52 (Renew), AM53 The Left, AM54-partially (S&D); AM56 (ECR), AM57 (S&D), AM48-49-50-51, 55 (The Left)**

**AMs falling: -**

No vote: AM8B Co-Rapporteurs

- (4) In accordance with Chapter 4 of the Convention implementing the Schengen Agreement<sup>[5]</sup>, third-country nationals legally residing in a Member State may move or travel freely within the territories of other Member States under the conditions set out in that Convention. Thus, under the Schengen acquis, third-country nationals legally residing in the territories of Member States may move or travel freely within the territories of all other Member States during a period of 90 days in any 180-day period in accordance with the conditions set out in Article 21 of that Convention.
- (5) This Directive should not affect the applicable Union rules governing mobility of third country nationals legally residing in a Member State ***across the Union, (AM52 Renew)*** and who are entitled to move or travel to other Member States in accordance with Union law, but should rather ***facilitate (AM52 Renew)*** the exercise of their right to move or travel when they already have such a right to mobility. ***For the purpose of this Directive, legal residence of a third-country national in the territory of a Member State shall be established on the basis of the status granted by that Member State under Union or national law, irrespective of the duration of this status.***
- (6) In accordance with Articles 1 and 2 and Article 4 of Protocol No 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the Treaty on European Union (TEU) and to the Treaty on Functioning of the European Union (TFEU), and without prejudice to Article 4 of that Protocol, **Ireland** is not taking part in the adoption of this Directive and is not bound by it or subject to its application.

[or]

In accordance with Articles 1 and 2 and Article 4 of Protocol No 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the Treaty on European Union (TEU) and to the Treaty on Functioning of the European Union (TFEU), and without prejudice to Article 4 of that Protocol, **Ireland** has notified [, by letter of ...] its wish to take part in the adoption and application of this Directive.

- (7) In accordance with Articles 1 and 2 of Protocol No 22 on the position of **Denmark**, annexed to the TEU and to the TFEU, Denmark is not taking part in the adoption of this Directive and is not bound by it or subject to its application.
- (8) Since the objective of this Directive, namely ***to strengthen the exercise of the free movement rights of persons with disabilities, as well as*** to facilitate the possibilities to move, or travel to other Member States, for persons with disabilities or those accompanying or assisting them, ***including their personal assistants, regardless of their nationality (AM8 Co-Rapporteurs; AM53 The Left, AM54 S&D)***, who are third-country nationals legally residing in the territory of a Member State and who are entitled to move or travel to other Member States in accordance with Union

law, cannot be sufficiently achieved by the Member States but can rather, by reason of the scale and effects of the action establishing a framework with rules and common conditions, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve that objective,

**(8 a) According to Directive.../... Member States are to ensure that public authorities make information on the special conditions, preferential treatment and parking conditions and facilities for persons with disabilities to make information thereof publicly available in a clear, comprehensive and user-friendly way as well as in accessible formats. Member States may also encourage private operators [LIBE CC6] that offer special conditions, preferential treatment and parking conditions and facilities for persons with disabilities to do so. The Commission should establish a single dedicated Union website in accordance to Article [15a] of [Directive (EU) XXXXX]. Member States should establish and update a national website with that information in accordance with Article [15] of [Directive (EU) XXXXX]. (AM57-redrafted S&D)**

### **COMPROMISE 3a -**

***To be voted as addition to Recital 5, second part***

**AMs covered: AM67 (S&D), AM71 (S&D)**

**AMs falling: -**

*Additional text to recital 5 following text: 'such a right to mobility.'*

***It is important that the persons subject to a return decision whose removal has been suspended on the basis of fact or law are able to benefit equally from this Directive. In that context, they should be able to obtain an appropriate legal status from Member States to allow them to do so.***

### **COMPROMISE 4 - Articles 1-3a**

**AMs covered: AM9 B Co-Rapporteurs; AM58 B (The Left) AM 59 (The Left); AM60 (S&D); AM61 (Renew); AM63 (ECR); AM64-65 (The Left); AM66 (Renew); AM69-70 (The Left); AM72 (The Left); 74 (S&D); AM 77 (The Left)**

**AMs falling: AM62 (ECR)**



No vote: AM9A Co-Rapporteurs, AM9A (The Left)

HAVE ADOPTED THIS DIRECTIVE:

#### *Article 1*

Member States shall ensure that the rules, ***rights and obligations (AM61 Renew)*** laid down in [Directive (EU) XXXXX] apply to third country nationals not falling within the scope of that Directive whose disability status and/or rights to parking conditions and facilities reserved for persons with disabilities, have been recognised by the Member State of their residence, as well as to ***any*** persons accompanying or assisting them, including ***their*** personal assistants ***regardless of their nationality, as well as to those making use of assistance animals (AM9B Co-Rapporteurs; AM58B-59 The Left; AM60 S&D), as defined in*** Article 3, points (d) ***and (h)*** of that Directive.

#### *Article 2*

This Directive shall not affect the applicable Union rules governing mobility of third country nationals legally residing in the territory of a Member State ***across the Union (AM66 Renew)***.

#### *Article 3*

For the purposes of this Directive “third country national” means any person who is neither a Union citizen within the meaning of Article 20(1) TFEU nor a family member of a Union citizen exercising his or her right of free movement within the meaning of Articles 2(2) and 3(2) of Directive 2004/38/EC, and who is legally residing in the territory of a Member State,, and is entitled to move or travel to other Member States in accordance with Union law.

#### ***Article 3a***

***1. Member States shall make the conditions and rules, practices, and procedures to issue, renew or withdraw a European Disability Card and a European Parking Card for persons with disabilities who are third country nationals legally residing in their territory publicly available and in accessible formats, including in digital and easy-to-read formats, and upon request, in assistive formats requested by them, and in a language that they can understand. (AMs 72&77 The Left)***

***2. The European Disability Card shall be issued or renewed by the Member State of residence directly or upon application by the person with disabilities or by an authorised person, under national law. Persons with disabilities shall be informed in a language that they can understand about the possibility to apply for the European Disability Card when it is not issued directly. It shall be issued and renewed free of charge to the beneficiary, within the same period for issuing disability certificates,***

*disability cards or any other formal document or procedure recognising the disability status or entitlement to specific services based on a disability. Member States may decide to charge a fee for the costs relating to the reissuance of the card in cases of loss or damage. In case of a fee, Member States shall ensure that this fee does not exceed the administrative costs concerned or discourage persons with disabilities from requesting the card again. (AM72&77 The Left)*

## **COMPROMISE 5 - Articles 3b-6**

**AMs covered: AM10 A (Co-Rapporteurs); AM73 (S&D); AM11 (Co-Rapporteurs); AM79 The Left; AM12 (Co-Rapporteurs); AM13 (Co-Rapporteurs); AM75 (The Left); AM78A (The Left); AM76 (S&D); AM80 (S&D); AM81 (RE)**

**AMs falling: -**

No vote: AM10B Co-Rapporteurs, AM78B (The Left)

### **Article 3b**

- 1. The Commission shall duly inform the European Parliament of the measures of national law which Member States adopt in the field covered by this Directive.**
- 2. By dd/mm/yy [three years from the date of application of this Directive], and every four years thereafter, the Commission shall submit to the European Parliament, to the Council, to the Economic and Social Committee and to the Committee of the Regions a report on the application of this Directive. (AM73 S&D)**
- 3. The report referred to in paragraph 1 of this Article shall address, inter alia, in the light of social, economic, technological and other relevant developments the use of the European Disability Card and European Parking Card for persons with disabilities in particular the impact of any fees where relevant, the extent to which the implementation of this Directive has met its objectives and its interaction with other relevant Union legal acts with a view to assessing the need to review this Directive. That report shall also include an analysis of specific situations of disadvantage resulting from intersectional discrimination, which is understood as discrimination based on a combination of disability and any other grounds protected under Directives 79/7/EEC, 2000/43/EC, 2000/78/EC or 2004/113/EC, as well as other grounds with a particular focus on women and girls with disabilities. (AM76 S&D)**
- 4. By XXX [1 year after the date of application], the Commission shall carry out an assessment on any remaining gaps relating to the free movement of persons with disabilities. The Commission shall take due account of the outcome of this assessment when deciding whether further action at Union level would be required to address any such gaps.**

#### Article 4

1. Member States shall **adopt** the laws, regulations and administrative provisions necessary to comply with this Directive **by ... [date of transposition of the Directive adopted in procedure 2023/0311(COD)]**. They shall **forthwith communicate to** the Commission **the text of those provisions. (AM11 Co-Rapporteurs; AM79 The Left)**

They shall apply those provisions from dd/mm/yy [*Publications Office, please insert the date of application of the Directive adopted in procedure 2023/0311 (COD)*].

When Member States adopt those **provisions**, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. **Member States shall determine how such reference is to be made.**

2. Member States shall communicate to the Commission **by dd/mm/yy [date of transposition of the Directive adopted in procedure 2023/0311 (COD)]**, the text of the **measures (AM13 Co-Rapporteurs)** of national law which they adopt in the field covered by this Directive.

#### Article 5

This Directive shall enter into force on the [twentieth] day following that of its publication in the *Official Journal of the European Union*.

#### Article 6

This Directive is addressed to the Member States in accordance with the Treaties.