

**Speaking points: Side event ACIG 2019**  
**Mark Wheatley, EUD Executive Director**

**Speaker and EUD intro**

I am Mark Wheatley, Executive Director of EUD, which is a not-for-profit European non-Governmental organisation (ENGO) whose members comprise of National Associations of the Deaf (NADs). It is the only supranational organisation representing Deaf people at European level and is one of the few ENGOs representing associations from all of the 28 EU Member States, in addition to EFTA countries: Iceland, Norway and Switzerland.

**What is the presentation about?**

During my presentation today I will focus on particularly important issue for the deaf community in the EU – the lack of coordination of social security benefits for people with disabilities while exercising the right to freedom of movement.

**Context**

The EU and all its member states are Party to the United Nation Convention on the Rights of Persons with Disabilities (CRPD).

**CRPD Articles 27 and 28 & fundamental freedom of movement**

Under Article 27 and 28 UN CRPD, the EU is obligated to safeguard and promote the realization of the right to work by taking appropriate steps and recognize the right of persons with disabilities to social protection, especially when they exercise one of the four fundamental freedoms in the EU – their right to move to live and work in another EU Member States.

**SDGs & Social Pillar commitments**

Not only as a Party to UN CRPD, but also as a Union that is committed to implement the SDGs and realise the principles enriched in Social Pillar and goals of the Agenda 2030.

**Concerns from the UN Committee**

However, in 2015, when the EU was reviewed by the United Nations Committee on the Rights of persons with disabilities it was highlighted, that:

*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.*

*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.*

**No system of coordination of SS benefits for economically active PWD**

However, currently in the EU there is no system for coordination of benefits that are provided to persons with disabilities who are economically active (both workers and job-seekers) that allow them to access the open labour market on an equal basis with others (e.g. funding provided to deaf sign language users to

communicate at the office when employed or at a job interview; funding for personal assistance to persons with reduced mobility and blind as well as deafblind persons to get to the office/a job, etc.).

### **Personal examples**

Indeed.... As a person who moved myself from the UK to Belgium..... I can highlight that I faced numerous barriers: e.g. e.g. e.g

### **EU is obligated by the UN CRPD**

As Party to the CRPD, the EU is expected to ensure compliance with the CRPD in all new and existing legislation.

Recently, the EU had an opportunity to address this issue. There was an opportunity to include the coordination of social security benefits for **economically active people with disabilities** during the revision of Social Security Coordination Regulation (Regulation 883), as the Report on implementation of the **European Disability Strategy** drafted by the European Parliament 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 Regulation which was under revision last year.

### **Regulation 883**

Regulation 883 coordinated social security benefits for people with disabilities who exercise their freedom of movement.

### **Only for economically inactive PWD**

However, the Regulation 883 coordinated long-term care benefits for economically inactive persons with disabilities. Meanwhile it is crucial and must be kept within the Regulation, it is important to also coordinate work-related benefits to allow economically active persons with disabilities to exercise their right to free movement as workers on an equal level with others.

### **Lack of coordination creates barriers and creates disparities**

A lack of coordination of these benefits is one of the barriers that persons with disabilities face when trying to access the labour market in another EU country, which is one of the factors explaining the strong disparities with regards to labour market participation of persons with disabilities across the EU.

### **Lack of coordination violates UN CRPD**

Excluding these benefits from the regulation violates the UN Convention on the Rights of Persons with Disabilities, especially article 27, and directive equal treatment in employment (2000/78/EC).

Currently, article 4 (1) of regulation on the application of the social security schemes to employed persons moving within the community (1408/71) as well as article 3 of regulation 883/2004 does not refer specifically to benefits provided to persons with disabilities, but mostly mentions benefits for persons **who are unable to work**, e.g. due to a disability (sickness benefits, invalidity benefits etc.). Thus, existing EU coordination legislation, including the revision of the Regulation 883, has, with regards to persons with disabilities mostly focused on those who

are economically inactive in the long run. This however only does not cover the diversity that exists within the group of persons with disabilities.

### **Many PWD can work**

There are many economically active persons with disabilities who are able to work but require support services and reasonable accommodation for equal access to the labour market, including in cross-border situation while exercising their right to free movement.

### **Coordination of SS is crucial to reduce unemployment rates and barriers**

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 lack of coordination rules.

### **Change is needed as the EU is now a party to the UN CRPD**

At the time of the adoption of regulation 883/2004, the EU was not yet a state party to the CRPD. However today, the continued exclusion of these benefits from the EU social security coordination rules would constitute a violation of the 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.

### **In the SS coordination regulation 883 – these are the changes that are needed:**

Work-related disability benefits vary strongly from one country to another, so it is difficult to generalise. Work-related disability benefits can be provided in cash, in kind or in a combination of both. These benefits can cover a variety of reasonable accommodations whose objective is to ensure equal access to work for a person with a disability.

### **Distinguish from long-term care**

Work-related disability benefits should be distinguished from long term care or sickness benefits, as grouping work-related disability benefits in the long-term care chapter is misleading. We define work-related disability benefits as “any benefit in kind, cash or combination of both that is provided to economically active citizens with a disability with the objective of supporting their access to, inclusion and retention in the labour market.

However long term care benefits is any benefit in kind, cash or a combination of both for persons who, over an extended period of time, on account of old-age, disability, illness or impairment, require considerable assistance from another person or persons to carry out essential daily activities, including to support their personal autonomy; this includes benefits granted to or for the person providing such assistance.

### **Distinguish from sickness**

Work-related disability benefits should not also be coordinated under sickness chapter, as this would evoke that all persons with disabilities have a sickness, which falsely portrays an image of persons with disabilities generally being unable to work due to their disability, which contributes to their continued exclusion and stigmatisation. This would not be in line with the CRPD's human rights-based model of disability.

### **If no coordination in 883, then EU must find other solutions and can't leave PWD behind**

If, after the revision, the EU decides to exclude the coordination of the social security benefits for economically active people with disabilities from 883 Regulation, the EU must find other solution to the issue.

It is still critical for the EU to address the matter. It is the most vital to ensure that the rights of persons with disabilities regarding free movement are guaranteed by ensuring the coordination and full portability of their social security benefits, including all kinds of disability benefits.

Therefore, EUD recommends:

### **To guarantee the rights of persons with disabilities regarding free movement by ensuring the coordination and full portability of their social security benefits, including all kinds of disability benefits.**

European Union must 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 and establish a clear coordination system of work-related disability benefits for economically active persons with disabilities.

### **Perceive people with disabilities as economically active players in the labour market and reflect this in the definitions of the benefits that are coordinated among member states for people with disabilities in EU legislation.**

Existing EU social security coordination legislation, including Regulation 883, with regards to persons with disabilities mostly focuses on those who are economically inactive in the long run. This however does not cover the diversity that exists within the group of persons with disabilities. This must be changed, as there are many economically active persons with disabilities who are able to work but require support services and reasonable accommodation for equal access to the labour market, including in cross-border situation while exercising their right to free movement.