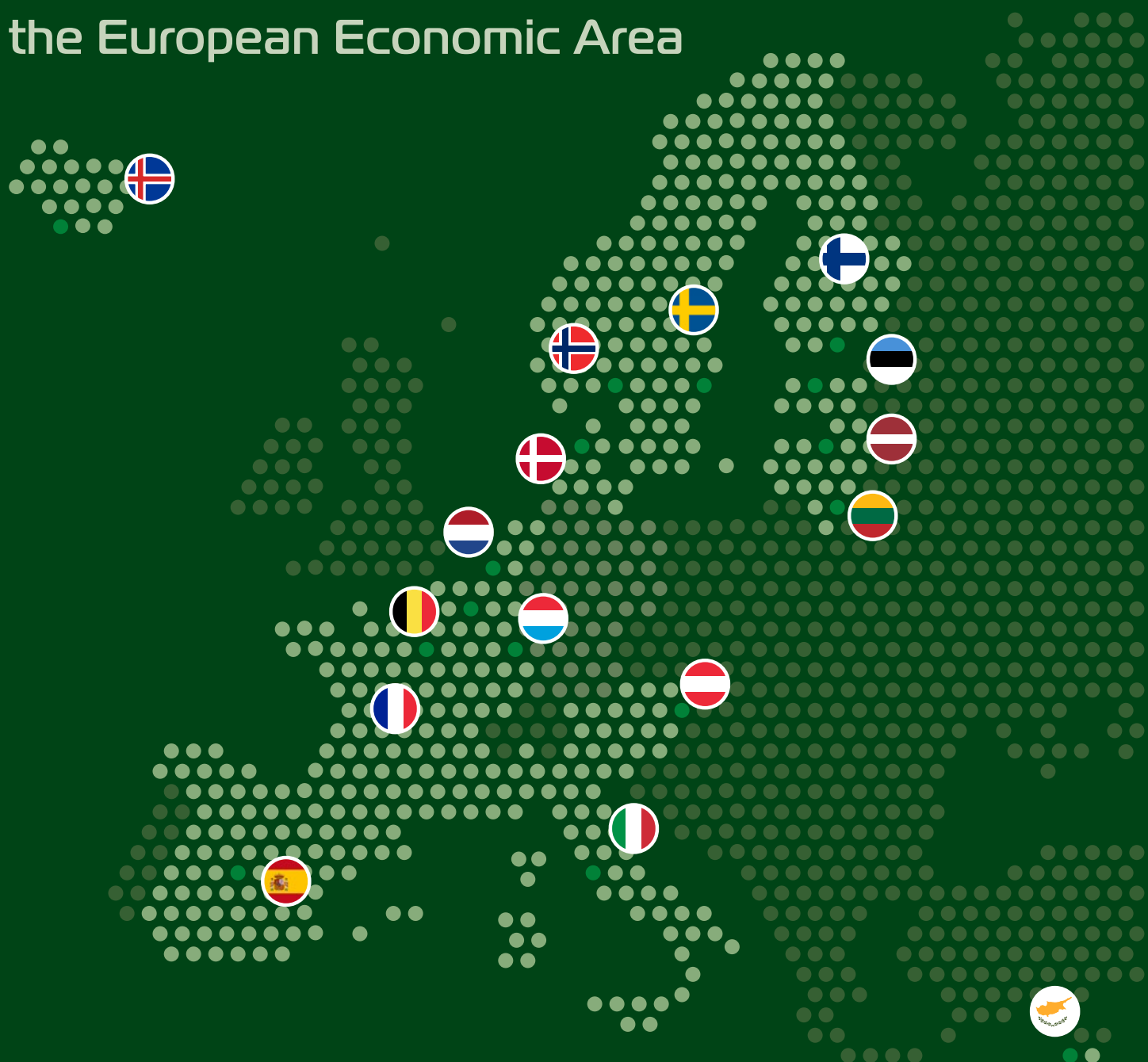


Legal Feasibility Report on Social ID Cards

in the Construction Sector across
the European Economic Area



Social identity cards in construction (SIDE-CIC) project – Legal experts

A Joint-Project of the European Social Partners for the Construction Sector on Social Identity Cards in Construction

ABSTRACT

The present Legal Feasibility Report, developed under the SIDE-CIC project, explores the potential for establishing an interoperable system of social ID cards in the construction sector across EU Member States and its legal feasibility. In a context marked by high worker mobility, complex subcontracting chains and significant occupational risks, the study argues that interoperability within social ID cards, could greatly contribute to enhance cross-border enforcement and compliance with EU and national legislation. The Study analyses several options for establishing an interoperable system between the cards, ranging from bilateral agreements and data spaces to shared schemes and EU legislative initiatives. The analysis reveals that while legal interoperability is achievable, especially through some of the options presented, its success depends on political will, stakeholder cooperation and alignment with EU data protection and internal market principles. The report concludes that a carefully designed interoperable system could significantly improve worker protection, reduce administrative burdens and strengthen fair competition within the EU construction sector.

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This report was produced with the support of Prof. Yves Jorens, Prof. Saskia Peters and Prof. Heinz-Dietrich Steinmeyer.

Special thanks to the national legal experts for their availability in completing the questionnaires and providing us their input on the national legal systems in the EU.



Funded by the European Union. Views and opinions expressed are however those of the author(s) only and do not necessarily reflect those of the European Union or of the DG for Employment, Social Affairs and Inclusion. Neither the European Union nor the granting authority can be held responsible for them.

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Executive Summary



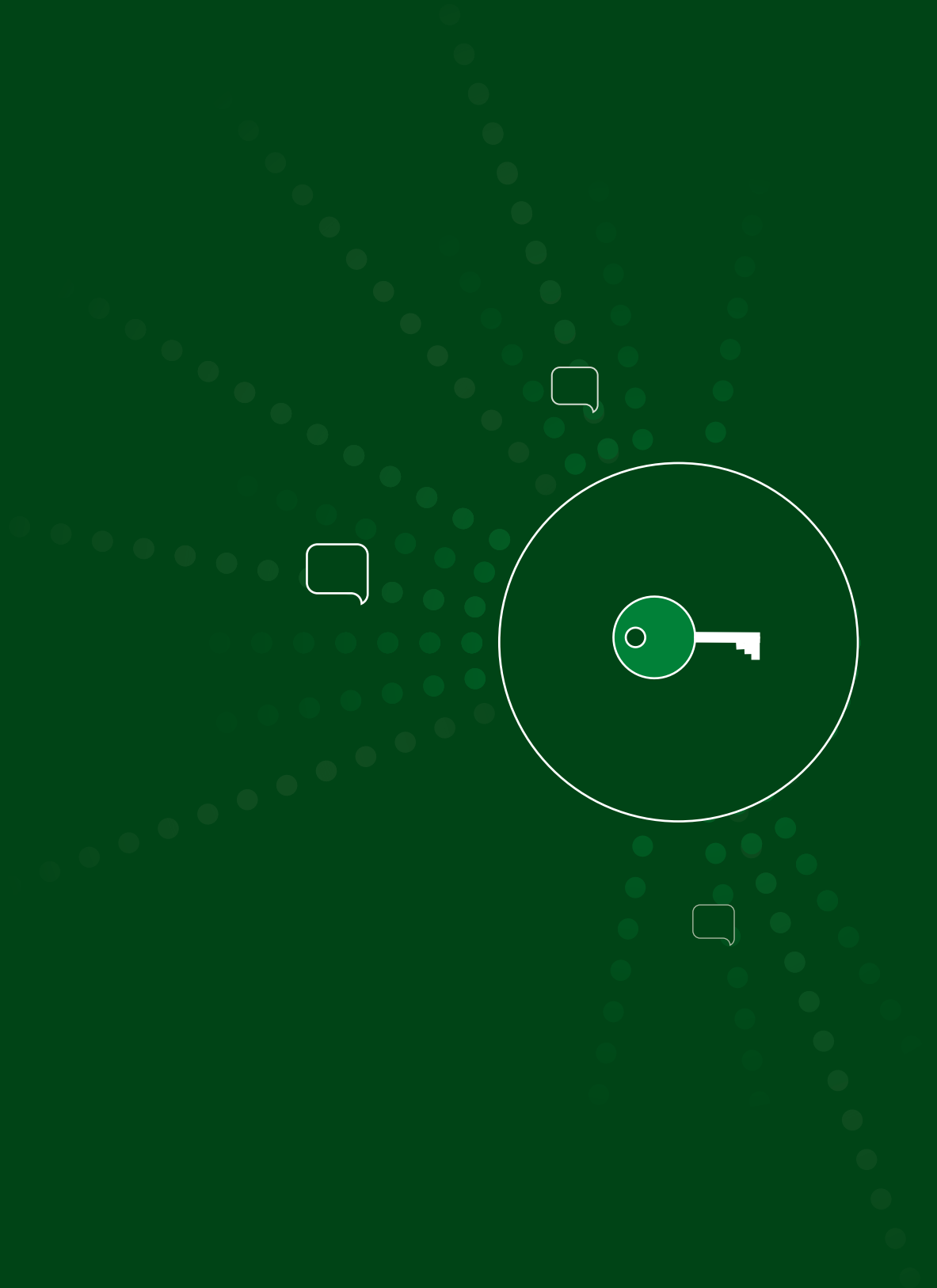
This Feasibility Report explores the potential for establishing an interoperable system between social ID card schemes in the construction sector across EU Member States. In a sector characterised by high mobility, complex subcontracting chains and significant occupational health and safety risks, an interoperable system could play a crucial role in facilitating the cross-border mobility of workers, strengthening compliance with labour and social security standards and promoting fair competition in the internal market.

The study examines the legal dimensions related to such an interoperable system, building on a comparative analysis of existing national social ID card frameworks and EU law requirements. The report evaluates different possible approaches to interoperability, ranging from the conclusion of bilateral or multilateral agreements between social ID card issuers to the creation of a common data space or of a new shared social ID card scheme. Each option is assessed in terms of its legal feasibility, practical implementation challenges and consistency with the project's overarching objectives. Preliminary findings suggest that while significant legal and operational challenges exist, including data protection concerns and risks of fragmentation, carefully designed interoperable solutions, whether based on connecting existing schemes or creating a new shared framework, could provide important benefits for workers, employers and national authorities.

The conclusions presented in the final section of the report are intended to inform the recommendations prepared by EFBWW and FIEC on the adoption of social ID cards and their potential interoperability. The Report aims at supporting informed decision-making on whether the interoperability between cards is feasible and the next steps towards building an effective, legally sound and future-proof interoperable social ID card scheme in the construction sector. The options in this Report are not mutually exclusive but can complement each other. Every option has its own pros and cons depending on the desired speed, scale, and type of interoperability. The Legal Feasibility Study confirms that creating an interoperable system for social ID cards in the construction sector is legally possible, though its success largely depends on political will, stakeholder cooperation, business model choices, and investment access.



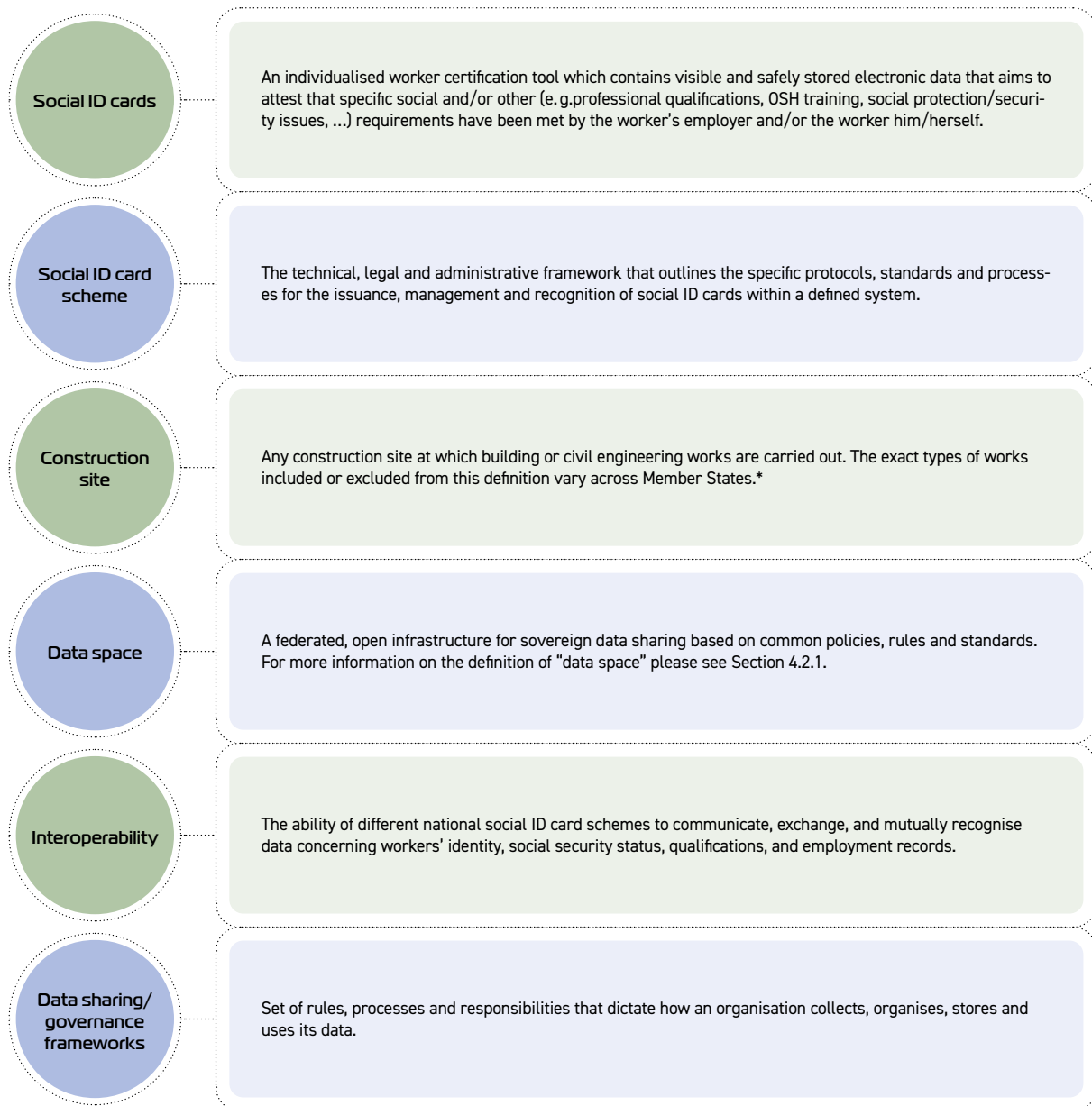
Key terms



The following graphic presents a glossary in which the Study team clarifies the meaning of some of the terms used throughout the Report. While various terminologies having similar meaning may be used across the Member States, the purpose of this glossary is to provide a set of common definitions to ensure compara-

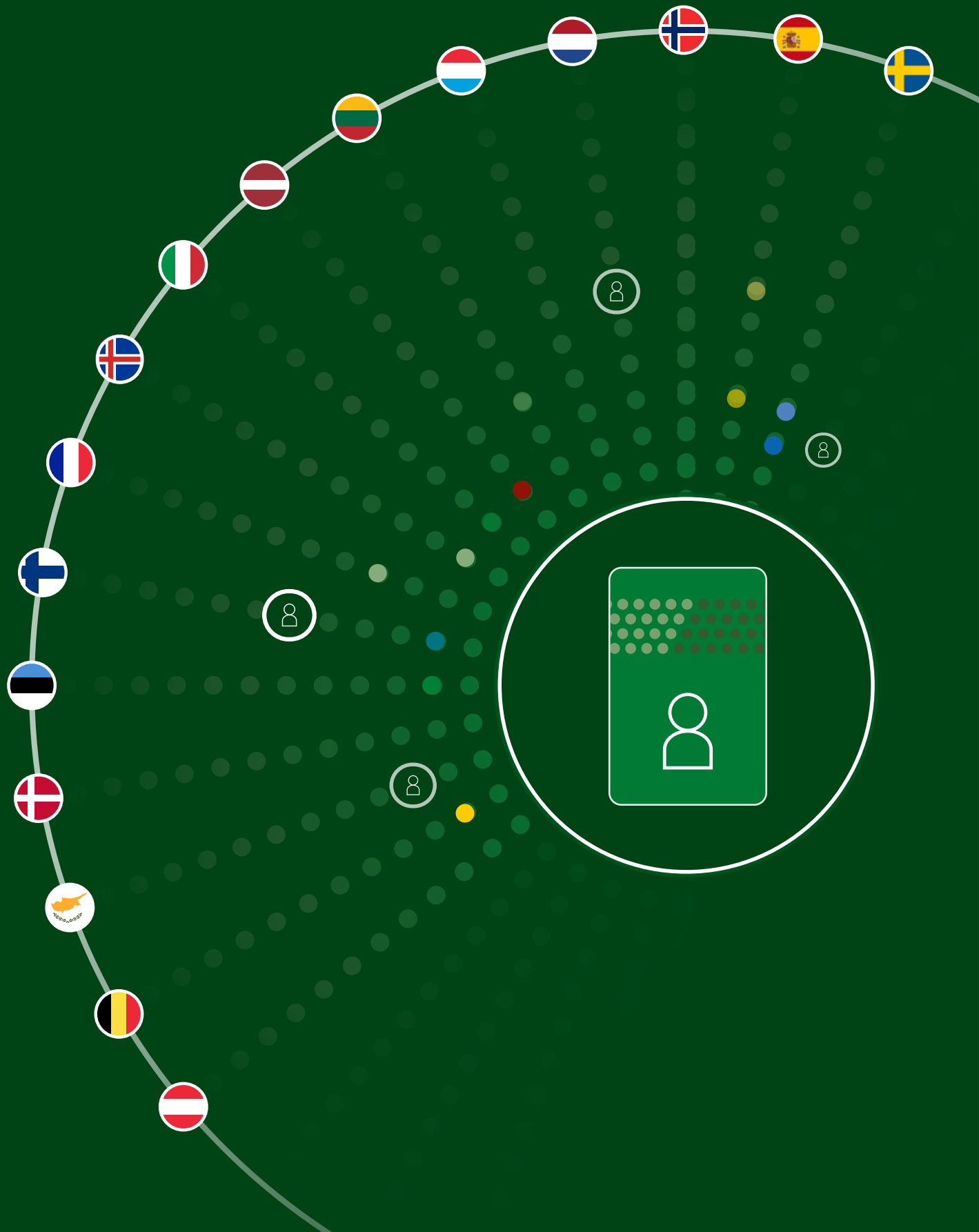
bility of the data and so that concepts and terminology are used consistently, to facilitate understanding of the Report. These working definitions are formulated for the purpose of this Report and do not have a legal value, only the definition of 'construction site' derives from an EU act.

Graphic 1 Key terms used throughout the Report



* Art. 2(a) of Council Directive 92/57/EEC of 24 June 1992 on the implementation of minimum safety and health requirements at temporary or mobile construction sites, OJ L 245, 26.8.1992, p. 6–22, available at: <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:31992L0057> (last accessed 7 January 2025).

1 Introduction



This document constitutes the Feasibility Report for the 'Project "SIDE-CIC" Social Identity Cards in Construction – Legal expert' jointly commissioned by the European Federation of Building and Woodworkers (EFBWW) and the European Construction Industry Federation (FIEC) in the framework of the EU-funded project 'Social ID cards in construction'. Spain has not been included in the scope of this Report.

The research has been carried out by Spark Legal and Policy Consulting assisted by an Advisory Board and a network of twenty-seven national legal experts (hereinafter 'the Study Team'). The preliminary research conducted during the first phase of this project has been summarised into an Interim Report submitted in November 2024.

The purpose of this Report is to reflect on the legal feasibility of interoperability and present and analyse the various options available for interoperability between social ID cards in the construction sector. For each option identified, the Report assesses its legal feasibility by examining the underlying legal framework, identifying key strengths and weaknesses and providing a reasoned justification for their potential effectiveness or limitations within the context of EU and national law.

This Report is structured into three chapters. Further to the present introduction, Chapter 1 presents the findings from the initial phase of the study, during which the Study Team mapped and analysed both national legislation in all Member States and the relevant EU legal framework. This chapter also sets out the objectives of the feasibility study and outlines the legal criteria used to assess each of the identified interoperability options. Chapter 2 examines these options in detail, providing the assessment of their legal feasibility. Finally, Chapter 3 presents the overall conclusions of the study, summarising the main findings and feasibility outcomes.

1.1 OVERVIEW OF THE EXISTING EU AND NATIONAL LEGAL FRAMEWORK

1.1.1 Summary of the legal mapping of existing social ID cards

The comparative analysis of the national systems of EU Member States with social ID cards in the construction sector reveals a complex landscape where both shared features and considerable divergences shape the design, implementation and enforcement of these schemes. These differences stem also from the fact

that Member States often pursue varying objectives with the social ID cards. In some countries, they function primarily as tools for identification or proof of registration with social security; in others, they go further, incorporating training records (e.g., OSH certifications), or even serving as enforcement tools used by inspection services to monitor compliance on-site. These functional differences have a direct impact on the potential for interoperability, as the legal and technical requirements will differ depending on the intended use.

A key aspect that constitutes one of the main challenges for interoperability relates to the diversities in basis under which social ID card schemes are adopted across Member States. Some cards are based on legislation, others on voluntary basis and others on collective agreements, thus their adoption is mandatory only for the companies that fall into the scope of the relevant collective agreements. In voluntary schemes, workers or employers may opt out of using the social ID cards, reducing their effectiveness as a compliance tool. This fragmentation creates challenges for ensuring uniform standards and complicates potential efforts to harmonise or create interoperable systems at the EU level. However, it should be noted that the schemes were not originally designed to support interoperability.

Directly stemming from the divergences on the basis of the social ID cards, another notable difference relates to the mechanisms to ensure data validity. In mandatory schemes employers are typically responsible for ensuring that the data associated with the card is accurate and up to date, while public authorities may verify this information during on-site inspections. However, in some countries there are no specific mechanisms in place to verify the accuracy of the data stored in voluntary or mandatory schemes. This lack of control mechanisms highlights a division between Member States that might impose a challenge for the sake of interoperability since trust between Member States on the information registered through the social ID cards is one of the main bases to ensure an interoperable scheme within the EU.

When it comes to enforcement, most of the Member States where the social ID card has a legal basis apply administrative fines for non-compliance with the requirements of the social ID card schemes. These fines are typically aimed at employers who fail at issuing the required cards, registering employees correctly, or tracking working hours, with fines varying considerably across Member States.

From a data protection perspective, all schemes comply with the overarching framework of the Gen-

eral Data Protection Regulation (GDPR).¹ However, some Member States have opted for the option provided by the GDPR and have introduced specific national provisions tailored to the processing of personal data in the context of social ID cards. These na-

tional provisions specify the application of the general principles provided for by the GDPR, expanding or limiting the scope of rights and obligations enjoyed by the parties. For the Member States that have not opted to make use of this option, the scheme is sole-

¹ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data and repealing Directive 95/46/EC (General Data Protection Regulation), OJ L 119, 4.5.2016, p. 1–88, available at: <https://eur-lex.europa.eu/eli/reg/2016/679/oj/eng>.

Table 1 Overview of the findings from the Member States with social ID cards

Member State	Social ID card's name	Legal basis/ voluntary basis/ non-legal basis	Personal scope of the cards
Austria	BauID card	Voluntary basis	Any employee working in a construction site under a private law contract, including: • Posted workers (Excluding: self-employed)
Belgium	Construbadge	Voluntary basis	'Blue collar' employees: employees who perform work that is mainly manual in nature. (Excluding: self-employed, and those performing intellectual tasks)
Denmark	Copenhagen ID Card project	Voluntary basis	All workers employed by the Copenhagen Municipality, including: • Posted workers • Self-employed (under certain conditions)
Estonia	Unified Worker Card	Legal basis	All individuals at the construction site, including: • Visitors • Non-construction personnel • Construction workers • Posted workers and third-country nationals if the data is in the employment register
Finland	Valtti-card	Voluntary basis	All workers on a construction site, including: • Employees • Self-employed • Posted workers
France	Carte BTP	Legal basis	All employees working on a construction site, including: • Temporary agency workers • Posted workers (excluding: self-employed)
Italy	TAG	Legal basis	All workers on the construction site, including: • Posted workers • Self-employed
Latvia	N/A	Legal basis	All workers of the main contractor or of the subcontractor who performs work at a construction site for the execution of the contract on construction work, including: • Self-employed • Posted workers
Lithuania	Transparent Worker ID Code	Mandatory	All the persons working on a construction site regardless of their status (excluding only: temporary visitors only delivering goods to the site)
	Builder's card by Strateg	Voluntary	Only the members of the Construction Association applying for it
Luxembourg	Social Badge	Legal basis	Only posted workers who are in an employment contract with a seconding entity
Sweden	ID06	Legal basis	All workers who have access to the construction site, including: • posted workers • self-employed

ly governed by the general provisions of the GDPR. The main point of contention is the lack of a harmonised choice of legal basis for the data processing activities related to the social ID card scheme. Generally, for voluntary card schemes the processing of data is based on consent of the worker, whereas the cards based on legislation or collective agreements rely on legal obligations or legitimate public interest. The difficulty in reconciliation does not stem from this difference in itself, but rather from the varying

approaches to the validity of a worker's consent. Indeed, some Member States do not consider that a worker can validly consent to the processing of their personal data within the context of a labour relationship, as the level of subordination impairs their freedom of choice.

The table below presents an overview of the main characteristics of the social ID cards analysed as part of this study.

	Authorities that have access to the data on the card (other than the issuing authority)	Mechanism to ensure validity of the data on card (Yes/No)	Enforcement system (Yes/No)	Info on OSH included in the card (Yes/No)	Social security information in the card (Yes/No)	Data protection legislation applicable to the cards (Specific or not)
Austria	Holiday and Severance Pay Fund, Social Insurance Institution, Fraud investigation authority	No (information not available)	No	No	No	Specific
Belgium	N/A	No	No	No	No	Specific
Denmark	N/A	Yes (the Municipality conducts checks)	Yes	No	No	Specific
Estonia	Police, Tax authority, Labour Inspectorate	Yes (the construction company is responsible, however public authorities can cross the data with various database to ensure validity)	Yes	No	No	No, GDPR
Finland	N/A	Yes	Not specifically for the social ID card, but generally for an ID	No	No	No, GDPR
France	Labour Inspectorate, Social security authority, Police, Customs and tax authority	No	Yes	No	No	Specific
Italy	Labour Inspectorate	Yes	Yes	No	N/A	N/A
Latvia	The State Revenue Service, the State Labour Inspectorate, the building authorities and the authorities carrying out the functions of a building authority, the Central Statistical Bureau, the State Border Guard, the institutions examining the competence of construction specialists	Yes	Yes	No	No	Specific
Lithuania	Labour Inspectorate, State Tax Inspectorate, Financial Crime Investigation Service, the police, the State Territorial Planning and Construction Inspectorate	Yes	Yes	No	Yes	No, GDPR
	N/A (voluntary scheme)	No	No	No	No	No, GDPR
Luxembourg	Labour and Mines Inspectorate, Customs administration	Yes	Yes	No	No	Specific
Sweden	Swedish Tax Agency	Yes	No	Yes	No	No, GDPR

1.1.2 Summary of the national legal frameworks in Member States without social ID cards

The comparative analysis of the legal frameworks concerning worker identification in the construction sector across Member States which do not have in place social ID cards reveals several divergences and some common points.

Overall, the analysis revealed that while some of these Member States have put in place specific legal frameworks regulating specifically personal identification of workers and occupational safety and health ('OSH') requirements on the workplace, other Member States have in place only more general or voluntary measures for these aims. Amongst the former, the majority of Member States have in place rules which are specific to the construction sector, but a significant number of States have in place only general workers identification rules.

In general, it can be noted how the impact and involvement of social partners and collective agreements on personal identification of workers in the construction sector is limited across these Member States. Even where collective agreements are in place, these do not generally address the topic.

In terms of key similarities, it can be noted that there is a universal responsibility of employers to verify worker identities and that OSH regulations play a role in many Member States in requiring the identification of workers in the construction sites.

In terms of data protection, the analysis shows a dichotomy of approaches amongst the Member States without social ID cards, between States which have in place specific regimes regulating personal protection in employment contexts and States relying only on the GDPR rules, which work as a common baseline for all Member States.

In addition to these results, the analysis has also shown that there were also experiences of Member States having tried to adopt some type of social security card used also as proof of the holder's identity and applicable to workers in the construction sector. The two experiences of Germany and Ireland differ on many levels, but they both were characterised by not obtaining the expected success. The German card was discontinued for being considered too easy to forge. On the other hand,

the Irish Government introduced the voluntary Public Services Card (PSC) to access some public services. However, the card was found violating the GDPR in terms of lawfulness, transparency and fairness in the government's processing of the collected information.

These specific experiences have been taken into consideration throughout the drafting of this Report, setting relevant precedents highlighting delicate aspects to be considered when analysing the different possibilities for building an interoperable scheme including Member States that did not adopt a social ID card and, more generally, for the potential adoption of an interoperable scheme amongst the Member States with a social ID card.

1.1.3 Summary of the relevant EU legal frameworks

When analysing the feasibility of an interoperable system for social ID cards, several key aspects of EU law must be considered. In relation to data protection, it is essential to select an appropriate legal basis for data processing, particularly given the complexities around workers' consent, legal obligations and public interest mandates. Compliance with fundamental GDPR principles, such as transparency, data minimisation and secure data handling, must be ensured. The system should be carefully designed to protect workers' personal data, limiting access strictly to relevant public authorities. Additionally, it should uphold workers' rights to digital self-determination by offering alternatives for those who may prefer paper-based methods of identity verification. Further, the design of an interoperable card must incorporate strict purpose limitation. For example, if access is granted to verify a worker's training status, safeguards must ensure that unrelated personal or employment data are not accessed. There is also a risk of unintended 'profiling' or the creation of centralised databases that could be used beyond their original compliance purpose. These concerns must be addressed through clear access rules, role-based permissions, and robust logging of data access.

Limits to the development of interoperable systems also arise in connection with EU internal market rules. Compliance with the rules on freedom of movement for workers, including non-discrimination, and the freedom to provide services, as enshrined in Articles 45 and 56 Treaty of the Functioning of the European Union (TFUE)² and further detailed in the Services Directive³ and the

2 Consolidated version of the Treaty of the Functioning of the European Union, OJ C 326/47, available at: https://eur-lex.europa.eu/resource.html?uri=cellar:2b-f140bf-a3f8-4ab2-b506-fd71826e6da6.0023.02/DOC_2&format=PDF.

3 Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market, OJ L 376, 27.12.2006, p. 36–68, available at: <https://eur-lex.europa.eu/eli/dir/2006/123/oj/eng>.

Public Procurement Directive,⁴ is crucial. The implementation of an interoperable system between social ID cards across Member States must avoid introducing discriminatory or disproportionate administrative requirements that could impede cross-border mobility or distort competition in public procurement. Promoting mutual recognition of social ID cards and equivalent worker identification methods could help streamline access to construction work for foreign workers and service providers, minimising barriers to participation. It is also essential to ensure that registration processes and related costs remain fair and equitable across national and foreign companies to prevent conflicts with EU principles on non-discrimination and proportionality. However, challenges persist concerning companies from Member States without a social ID card scheme, as they could face additional costs and administrative burdens when seeking to provide services or participate in public tenders in countries where social ID cards are required, raising concerns regarding the freedom to provide services and non-discrimination.

Other branches of EU law are also relevant to the analysis, including social security coordination regulations, posted workers rules, worker mobility legislation and OSH requirements. The construction sector, characterised by long subcontracting chains, high worker mobility and elevated occupational risks, faces significant challenges in ensuring compliance with labour standards, social security coordination and OSH requirements across borders. Based on the comparative analysis of national frameworks and EU law, it appears that introducing an interconnected ID card scheme could contribute significantly to addressing these issues. In particular, EU social security coordination rules are designed to guarantee the portability of social security rights for mobile workers; however, implementation challenges and the complexity of cross-border data exchanges continue to create gaps, limiting real-time verification and access to necessary information. A digital social ID card could help bridge these gaps by making key social security information more accessible to workers and inspectors. Similarly, for OSH compliance, social ID cards could be used to track OSH training and certifications, ensuring that only properly trained workers are present on construction sites.

Finally, broader EU initiatives provide a supportive framework for the development of an interoperable digital system. Instruments such as the Single Digital Gateway Regulation,⁵ the Interoperable Europe Act,⁶ and the European Digital Identity Framework⁷ offer a basis for building an integrated, cross-border e-government ecosystem that could accommodate an interoperable social ID card scheme. By leveraging these tools, it would be possible to enable secure data sharing across Member States, simplify cross-border administrative procedures and provide a trustworthy platform for storing labour and social security data. Pilot projects such as ESSPASS further illustrate the potential for developing an interconnected digital solution for mobile workers in Europe.

1.2 OBJECTIVES, SCOPE OF THE INTEROPERABILITY AND LEGAL FEASIBILITY CRITERIA

This Feasibility Report aims to assess the possibility of establishing an interoperable system between social ID card schemes in the construction sector across different EU Member States. The objective of the feasibility study is to analyse whether and how different existing or potential social ID card schemes could be interconnected or aligned, taking into account the relevant legal, technical and operational constraints. The report examines various interoperability options in order to determine their potential to support cross-border mobility of workers, improve enforcement of labour and social security standards and promote fair competition within the EU internal market. The scope of the analysis covers both the interoperability of already existing national social ID cards and the potential creation of new shared schemes between social partners or through EU legislation.

Interoperability, in this context, is understood as the ability of different national social ID card schemes to communicate, exchange and mutually recognise data concerning workers' identity, social security status, qualifications and employment records, while ensuring compliance with EU and national legal standards.

To assess the feasibility of interoperability, it is important to identify the operational tasks that an interoper-

⁴ Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC, OJ L 94, 28.3.2014, p. 65–242, available at: <https://eur-lex.europa.eu/eli/dir/2014/24/oj/eng>.

⁵ Regulation (EU) 2018/1724 of the European Parliament and of the Council of 2 October 2018 establishing a single digital gateway to provide access to information, to procedures and to assistance and problem-solving services and amending Regulation (EU) No 1024/2012 [2018] OJ L295/1 available at: <https://eur-lex.europa.eu/eli/reg/2018/1724/oj/eng>.

⁶ Regulation (EU) 2024/903 of the European Parliament and of the Council of 13 March 2024 laying down measures for a high level of public sector interoperability across the Union [2024] OJ L2024/903, available at: <https://eur-lex.europa.eu/eli/reg/2024/903/oj>.

⁷ Regulation 2024/1183 of the European Parliament and of the Council of 11 April 2024 amending Regulation No 910/2014 as regards establishing the European Digital Identity Framework [2024] OJ L2024/1183, available at: <https://eur-lex.europa.eu/eli/reg/2024/1183/oj>.

able system is expected to support. These may include: (i) verifying the identity and legal employment status of workers at the construction site; (ii) enabling mutual recognition of training and certification records; (iii) facilitating the real-time verification of social security and posting status across borders; and (iv) supporting enforcement by inspection services through access to relevant data. Each task carries different legal and technical requirements, and the effectiveness of any interoperability model must be assessed in light of how well it serves these needs. For this reason, the legal and technical implications of an interoperable social ID card depend heavily on its intended purpose. A minimal model may focus on enabling basic identity checks by employers, with limited data exchange. A more advanced model could support public enforcement by giving labour inspectorates access to employment, training or social security information, requiring higher levels of data assurance, legal authorisation, and mutual access to verified databases. The chosen use case, ranging from basic verification to cross-border enforcement cooperation, will significantly affect the system's governance and implementation requirements.

Therefore, a key preliminary consideration is the specific objective the interoperable social ID card is meant to achieve. Is the goal mutual recognition of basic identification data, or more extensive cross-border access to employment, training or compliance records? The most ambitious scenario would involve granting inspection authorities access to databases managed by their counterparts in other Member States. One of the broad objectives of an interoperable system should be to facilitate worker mobility across EU Member States by enhancing the verification process of authorities and employers of worker identities. In addition, the system could aim to improve compliance with EU rules on posted workers, social security coordination and OSH requirements, particularly in a sector characterised by high mobility and complex subcontracting chains. Another important objective is the reduction of administrative burdens for companies, particularly small and medium-sized enterprises SMEs and for workers by simplifying documentation processes and providing a single, trustworthy source of verified information, i.e. the social ID card. The system could also serve to enhance the enforcement capacities of labour inspectorates and other public authorities by ensuring access to accurate, standardised data across borders.

To ensure a coherent and comprehensive assessment, the feasibility of the identified options is measured against a set of criteria established for the purposes

of this study. These criteria are used in combination with the degree to which each interoperability option contributes to the overarching objectives of the project. Therefore, the feasibility of each option has been assessed against each criterion and its capacity to deliver meaningful progress toward EU-wide interoperability.

The first criterion is the decision-making process required to implement the option. Some options may rely on bilateral arrangements between social partners or collective agreements and thus be relatively swift to adopt, while others may require amendments to national legislation or even coordinated EU-level action, which can be significantly more complex and time-consuming. Second, the analysis considers the degree of alignment with EU law, particularly in relation to internal market principles—such as the free movement of workers and the freedom to provide services—as well as compliance with the GDPR. This criterion ensures that any proposed solution does not infringe upon existing legal obligations or create new legal uncertainties. Linked to the decision-making process, the third criterion relates to the level of political will and effort required. While some options may be technically sound or legally feasible, they might lack political will or require considerable administrative and institutional coordination, potentially limiting the likelihood of their actual implementation in practice. The fourth criterion is the comprehensiveness and scalability of the option. This refers to the extent to which the proposed approach can be extended beyond the initial group of participating countries or social partners. A solution that works well in a limited setting but cannot be scaled to additional Member States or sectors would ultimately undermine the objective of the project to achieve an EU-wide interoperable system. Finally, the expected timeframe for implementation is the fifth criterion. Certain options could be feasible in the short term, while others may require longer development cycles, regulatory adaptations, or large-scale political negotiations, which must be factored into the overall feasibility assessment.

In applying these criteria throughout the report, the Study Team remains aware of the fact that legal feasibility must be weighed alongside political, operational, technical⁸, financial and strategic considerations. The ultimate objective is not simply to identify what is legally possible, but to assess which options are most likely to result in a practical, effective and sustainable interoperable system for social ID cards across the European Union.

⁸ Please see the Technical Feasibility report, available on the websites of EFBWW and FIEC.

2 Interoperability options



2.1 BILATERAL AGREEMENTS BETWEEN CARD ISSUERS

This option will be assessed in light of the operational tasks identified in Section 1.2, including its potential to support identification, training recognition, social security coordination and enforcement.

2.1.1 Legal aspects related to bilateral agreements

One of the options identified to introduce interoperability between national social ID cards in the construction sector is through the establishment of bilateral agreements between card issuers. For the purposes of this report, when the explanation refers to bilateral agreements, this is not necessarily limited to two parties, as the legal assessment presented does not change if more parties join the agreement. This choice would allow the sharing of data included in the social ID cards between two Member States. Such agreements should address, inter alia, how the two parties can safely share data between them, which common technical standards should be in place to ensure compatibility of the two public systems, or how to mutually recognise data from the social ID card issued in the other country. The agreements can take various legal forms and may involve different actors depending on the scheme of the social ID cards concerned. Specifically, the main differences in the legal aspects to consider in this section stem from the fact that some social ID cards are managed and issued by social partners, while others by public authorities. Three categories of bilateral agreements can be distinguished.

Firstly, in cases where the national social ID cards are managed by social partners, the bilateral agreements could correspond to contractual agreements concluded directly between the latter or the organisations they managed, such as paritarian bodies. It is worthy to note that such bodies already have cooperation agreements in place. The agreements in this category could take multiples forms. For instance, the parties could decide to establish an ad-hoc industry-level arrangement, which is a contractual agreement between sectoral organisations to mutually recognise or technically interconnect their social ID cards (through the creation of a data space between them for instance).

Social partners could also establish a clause in their respective national collective agreements to introduce obligations related to the data exchange of information collected through the national social ID cards or their mutual recognition. However, mutual recognition via collective agreement clauses would not necessarily bind non-signatory employers or employees, as the coverage of such agreements might not be always extensive, depending on Member States' customs. In the context of bilateral agreements between social partners, the European Labour Authority (ELA) could provide logistical, technical and financial support to facilitate cross-border cooperation initiatives. Such support must be ensured on an equal basis for both workers and employers. As part of its mandate, ELA may provide support to initiatives aiming to enhance collaboration between social partners to facilitate the implementation of EU rules on labour mobility law.⁹

A second category of bilateral agreements concerns the interoperability between social ID cards managed by public authorities. In this case, interoperability could be achieved via administrative cooperation agreements between the competent authorities of two (or more) Member States. Unlike the agreements between social partners, these have a public law nature and thus, are not regulated by private contract law. This implies that amendments in national legislation could be required to allow public authorities to enter in such cross-border administrative arrangements, to define the scope and conditions of such agreements and to allow the sharing of data between authorities. The specific amendments that might be required in the national legislation depend on the national legal systems of the authorities entering the bilateral agreement. At EU level, the Interoperable Europe Act¹⁰, sets some preliminary rules and principles to enhance cross-border interoperability and cooperation in the public sector across the EU. However, it primarily focuses on providing tools, frameworks and general schemes to assist Member States in the developing of interoperability solutions, rather than creating binding obligations for data exchange. Specifically, the Interoperable Europe Act does not create a new legal basis for the exchange of personal data between public authorities since it provides only for the processing of personal data in the context of the interoperability regulatory sandbox.¹¹ Thus, the cross-border exchange of data in

⁹ Article 2, Regulation (EU) 2019/1149 of the European Parliament and of the Council of 20 June 2019 establishing a European Labour Authority, amending Regulations (EC) No 883/2004, (EU) No 492/2011, and (EU) 2016/589 and repealing Decision (EU) 2016/344, OJ L 186, 11.7.2019, p. 21–56, available at: <https://eur-lex.europa.eu/eli/reg/2019/1149/oj/eng>.

¹⁰ Regulation (EU) 2024/903 of the European Parliament and of the Council of 13 March 2024 laying down measures for a high level of public sector interoperability across the Union (Interoperable Europe Act), OJ L, 2024/903, 22.3.2024, available at: <https://eur-lex.europa.eu/eli/reg/2024/903/oj/eng>.

¹¹ A regulatory sandbox is a framework created by regulators that allows companies to test and develop new products, services, or business models in a controlled and monitored environment. It provides a legal classification that enables businesses to operate without the burden of onerous regulations for a limited time, fostering innovation while ensuring consumer protection. For more information see also section below 4.1.3.

the context of interoperability between social ID cards is still regulated by the GDPR and the different national legal frameworks have to be taken into account. In a report recently published by ELA on Bilateral agreements in the area of EU labour mobility, some types of agreements concluded between public entities have been classified:

- Agreements between governments (signed by prime ministers) from different Member States (and/or from different regional levels in federal states).
- Agreements between ministries at the state (and/or regional) level from different Member States.
- Agreements between executive agencies or enforcement bodies from different Member States.
- 'Mixed' public agreements (e.g. between a regional authority or enforcement agency and a national enforcement agency, or between a ministry and an enforcement agency). Agreements between regional and national authorities have a more territory-oriented scope as they are applicable specifically in a particular region of a Member State.¹²

This list shows that there are several possibilities amongst bilateral agreements between public authorities. The competence to enter into such agreements may vary significantly between Member States based on their constitutional organisation, as in some Member States national ministers may lack the authority. The scope of each kind of agreement is constrained by the competence and mandate that the public parties have within their constitutional legal framework.

A third category consists of a hybrid bilateral agreement concluded between a social partner(s) or paritarian organisations in one Member State and a public authority in another Member State. The legal nature of such agreements is complex, as it implies a contractual arrangement between a private entity (the social partner) and a public authority. As such, this might likely require specific enabling provisions in national law to authorise public authorities to enter into cooperation agreements with private foreign entities. An example of such a hybrid agreement in the field of posted workers is the 2018 bilateral agreement concluded between the National Social Insurance Institution of Poland (ZUS), namely a national public authority and the German Holiday Fund (SOKA-BAU) for the construction

sector, which is a paritarian body managed by social partners. Through the agreement, ZUS obtains information and data on the wages that have been paid to workers who are posted from Poland to Germany and on the contributions paid to the holiday fund in order to verify whether the latter are effectively taken into account under the Polish social insurance system. Such agreements highly reduce the amount of administrative step to ensure the contributions are correctly paid and, at the same time, they ensure that workers who have been posted to Germany and consequently have had contributions paid to the holiday fund can still claim these payments if they have unused leave.¹³

EU law main considerations

Apart from the legal implications under national law concerning the legal capacity of the parties to conclude bilateral agreements, several **key aspects of EU law** would need to be taken into account when developing agreements.

Specifically, all forms of bilateral agreements between cards issuers involve the exchange of personal data between national schemes. Therefore, compliance with the GDPR should be ensured. In this regard, relevant provisions to consider include:

- Article 6 GDPR (Lawfulness of processing): Bilateral agreements must identify a clear legal basis for data processing.
- Articles 26-28 GDPR: In cases where data controllers jointly determine the purposes and means of processing, a clear joint controllership agreement (Article 26) or data processing agreement (Article 28) would need to be concluded.
- Article 32 GDPR (Security of processing): Bilateral agreements must ensure that appropriate technical and organisational measures are in place to safeguard data security.

Furthermore, any kind of bilateral agreements between cards issuers has to be compatible with the fundamental principles of the EU internal market. In particular, the agreements must not create unjustified obstacles to the free movement of workers who are, nationals of Member States not participating in the agreements (Art. 45 TFEU). Obstacles may be con-

¹² European Labour Authority, "Bilateral and multilateral agreements in the area of EU labour mobility" (2025), p.31, available at: <https://www.ela.europa.eu/sites/default/files/2025-03/ela-report-agreements-eu-labour-mobility.pdf>.

¹³ European Labour Authority, "Bilateral and multilateral agreements in the area of EU labour mobility" (2025), p.32, available at: <https://www.ela.europa.eu/sites/default/files/2025-03/ela-report-agreements-eu-labour-mobility.pdf>.

sidered justified only if they pursue legitimate public interest objectives, such as preventing fraud or tackling undeclared work. The agreements must also not impose disproportionate administrative requirements and burdens on service providers offering services in the Member States parties to the agreement (Art. 56 TFEU and Directive 2006/123/EC Articles 16(2) and 3(e)). A key concern is the potential for such agreements to distort competition in the internal market by creating advantages for companies from Member States participating in the bilateral agreement.¹⁴ For example, in a public procurement context, a construction company from a Member State participating in a bilateral agreement may experience reduced administrative requirements related to worker registration and compliance with local rules when operating in another participating country. While this can facilitate cross-border operations, it may also raise concerns about creating uneven conditions for companies from non-participating Member States, which might still need to comply with additional administrative steps. This could result in a 'double burden' where companies from non-participating Member States are required to maintain their national systems while also conforming to the requirements of the bilateral agreement, raising concerns of proportionality, non-discrimination and potential barriers to service provision under EU law. Affordability of the card is also a critical element: if the cost of using or joining the scheme is too high, it may constitute an unjustified restriction on market access. To prevent these agreements from creating barriers to the fundamental freedoms of EU internal market law, any benefits derived from such agreements should be made equally accessible to companies from non-participating Member States.

In terms of contractual freedom of social partners, the *Laval* case (Case C-341/05)¹⁵ is interesting to mention. The Court of Justice of the European Union (CJEU) acknowledges the possibility for social partners in a host country to conclude collective agreements with companies that are established in other Member States and that are posting workers to the host country. However, the Court affirms that such agreements cannot override the Posting of Workers Directive.¹⁶ Specifically, the Court of Justice affirms that the Directive limits the level of protection guaranteed to posted workers. Neither the host Member State nor the social partners

can ask for more favourable conditions, which go beyond the mandatory rules for minimum protection in the Directive. Considering the implications of this judgment to bilateral agreements between social partners to interconnect their social ID cards, the *Laval* case suggests that such agreements cannot require compliance with the host country working conditions beyond the Posted Workers Directive minimums. This could create legal challenges if interoperability efforts include obligations for companies to register workers in a system that applies local collective agreement standards beyond the Directive's scope.

Some examples of bilateral agreements between Member States and occasionally also between social partners, already exist across the EU. For instance, in the field of social security coordination, several Member States have concluded bilateral or multilateral agreements to complement EU rules, particularly concerning administrative cooperation and data exchange. These agreements illustrate how cross-border cooperation can function within the framework of EU law, while respecting subsidiarity and proportionality principles. Also, in the field of tackling undeclared work, which is much less regulated than social security coordination, Member States and social partners have put in place several bilateral agreements to compensate the gaps in existing legislation. In this field, not only bilateral agreements are used, but also Memoranda of understanding ('MoUs') which are less formal than the former category. MoU often sets out operational arrangements under a framework agreement at international level. They are usually non-binding instruments. MoUs can cover agreements between enforcement bodies of different Member States. Often, they focus on working arrangements, sometimes in addition to the more formal bilateral agreements. Due to their non-binding nature, issues related to their enforceability in practice may arise.

Here are some examples of agreements concluded by Member States:

- Germany has concluded five bilateral international treaties on cooperation on combating illegal employment with Bulgaria, France, the Netherlands, Austria and the Czech Republic. Besides the exchange of information, the treaties foresee prevention measures.

¹⁴ Consolidated version of the Treaty on the Functioning of the European Union - PART THREE: UNION POLICIES AND INTERNAL ACTIONS - TITLE VII: COMMON RULES ON COMPETITION, TAXATION AND APPROXIMATION OF LAWS - Chapter 1: Rules on competition - Section 1: Rules applying to undertakings - Article 101 (ex Article 81 TEC), OJ C 115, 9.5.2008, p. 88–89, available at: https://eur-lex.europa.eu/eli/treaty/tfeu_2008/art_101/oj/eng.

¹⁵ *Laval un Partneri Ltd v Svenska Byggnadsarbetareförbundet*, Svenska Byggnadsarbetareförbundets avdelning 1, Byggettan and Svenska Elektrikerförbundet, C-341/05, available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:62005CJ0341>.

¹⁶ Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services, OJ L 18, 21.1.1997, p. 1–6, available at: <https://eur-lex.europa.eu/eli/dir/1996/71/oj/eng>.

- In 2014 the Labour Inspectorate of Estonia and the Division of Occupational Health and Safety of the Regional State Administrative Agency of Finland concluded an Agreement on Cooperation for transfer of information related to occupational safety and health data when the Internal Market Information system (IMI)¹⁷ cannot be used.
- The Netherlands has signed MoUs with the Czech Republic, Slovakia, UK, Portugal and Bulgaria in the areas of social security and tackling undeclared work. Moreover, in The Netherlands the Institute for Employee Benefit Schemes (UWV) and the Sociale Verzekeringsbank (SVB), the bodies responsible for the payment of social insurance schemes and income, perform data matching with social security agencies in Spain, the UK and Sweden.¹⁸

2.1.2 Considerations on the interoperability with Member States without social ID cards

A bilateral agreement could also be established between a Member State that adopted a social ID card in the construction sector and a Member State without such cards. This agreement could facilitate the exchange of workers' data with Member States that do not use cards, for instance, in some Member States (e.g. in Greece) there are already some national databases where such data is stored. Therefore, through the social ID card system, the data those databases and the data collected through the cards in the other Member State, could be connected. The agreement could also be used to allow social ID cards to be recognised as a valid way to identify workers in Member States that have not adopted a social ID card scheme. For instance, such bilateral agreement could be used to interconnect workers' data between a Member State with a social ID card scheme mainly receiving construction workers and from a Member State in the EU without a card mainly sending construction workers. This system could, for instance, facilitate labour inspectorates in verifying worker's identity, the lawfulness of posting and assess the employment relationship between the workers and the employer in both the sending and receiving Member States. This benefit hinges on whether inspectorates in the send-

ing and receiving MS actually have access to compatible/same categories of data.

Similarly to what is explained in Section 4.1.1 above, in cases where the social ID card is managed by social partners, bilateral agreements could be structured as contractual arrangements between social partner organisations in the receiving Member State and companies or social partners in the sending Member State. Given the private law nature of such agreements, they would likely require alignment with national collective bargaining frameworks and existing industrial relations structures. The judgment of the Court of Justice in the Laval case, mentioned in the section above, clarifies the obligations of social partners when signing collective agreements with companies established in another Member State that post workers to the host country. According to the ruling, the level of protection guaranteed to posted workers in the host Member State is, in principle, limited to the provisions set out in Article 3(1), first subparagraph, (a) to (g) of Directive 96/71¹⁹. However, an exception applies if the law or collective agreements in the workers' country of origin already grant them more favourable terms and conditions of employment regarding the matters covered by this provision. In such cases, the higher level of protection must be maintained. Therefore, while bilateral agreements might aim to facilitate worker identification or data sharing, they cannot be used to undermine the minimum levels of protection set out in Directive 96/71/EC, or to bypass more protective conditions that already apply under the law or collective agreements in the sending Member State. Alternatively, where the social ID card scheme is managed by public authorities, interoperability would require an administrative agreement between the competent authorities of the participating Member States. Such an agreement would establish the conditions under which workers from the sending country could be registered within the social ID system of the receiving country. Given the public law nature of these agreements, amendments to national legislation might be necessary to authorise public authorities to enter into cross-border administrative arrangements.

The agreements described under this section would also need to ensure compliance with EU rules and principles mentioned above.

¹⁷ The Internal Market Information System (IMI) is a secure, multilingual online tool that facilitates the exchange of information between public authorities involved in the practical implementation of EU law.

¹⁸ European Labour Authority, Report on the cooperation practices, possibilities and challenges between Member States –specifically in relation to the posting of third-country nationals, February 2023, pg. 73. Available at: <https://www.ela.europa.eu/sites/default/files/2023-04/ela-report-posting-third-country-nationals.pdf>.

¹⁹ Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services, OJ L 18, 21.1.1997, p. 1–6, available at: <https://eur-lex.europa.eu/eli/dir/1996/71/oj/eng>.

2.1.3 Conclusions on the feasibility and desired impact of the option

The feasibility of implementing bilateral agreements as a mechanism for ensuring interoperability between social ID cards in the construction sector must be assessed in light of both its potential opportunities and the key legal challenges identified. A primary consideration, as outlined in Section 3.1.1, relates to the significant differences between the national social ID cards' schemes currently adopted across the EU. The cards vary widely in their purposes and therefore, the type of data they collect, making interoperability across different schemes rather complex. Therefore, the feasibility of bilateral agreements as a means of interconnecting social ID cards should be restricted to cases where a high degree of similarity already exists between the systems in question, resulting in a limitation of the scope of this option. An example of this could be Finland and Estonia, which share strong labour market ties and have relatively comparable digital infrastructures for worker identification as underlined by the technical team during their first workshops.

Furthermore, as outlined in the sections above, the involvement of public authorities in bilateral agreements may, depending on the national context, require amendments to national legislation. Such changes could necessitate formal decisions by national governments and, in some cases, parliamentary approval. This potential need for legislative action could introduce significant delays and administrative burdens, making the implementation of this approach relatively lengthy in certain Member States. Nevertheless, the EU has been recently promoting interoperability between public authorities, especially with the adoption of the Interoperable Europe Act. This regulation provides support to stakeholders through courses, tools and examples aimed at facilitating the development of cross-border interoperability in the public sector. In particular, the Act introduces the concept of interoperability regulatory sandboxes—controlled environments designed to allow the testing and development of innovative solutions before their formal adoption. It is the first EU regulation establishing regulatory sandboxes with a cross-border dimension and could therefore serve as a basis for encouraging the interoperability of social ID cards managed by public authorities. These sandboxes can run for a maximum of two years, after which the European Interoperability Board issues an opinion to the Commission on the out-

comes and recommends potential next steps towards wider implementation. Considering the experimental nature of sandboxes, the outcomes are informative for future scaling. Thus, public authorities managing social ID cards in the Member States could consider participating in such regulatory sandboxes as an initial step to explore and test how to achieve greater interoperability.

As regards the option of involving only social partners in bilateral agreements, several legal considerations must also be taken into account. Specifically, a great degree of diversity between national collective bargaining systems across EU Member States has been noted.²⁰ In addition to the EU legal requirements, the ability of social partners to include interoperability clauses within collective agreements will depend on each country's national laws, particularly rules governing contracting obligations and the legal effects of collective agreements. Therefore, before proceeding, a thorough compatibility analysis between the national frameworks of the countries concerned would be necessary to assess the feasibility of embedding such clauses effectively. Moreover, both in case of the inclusion of 'interoperability clauses' in national collective agreement and industry-level arrangements between social partners, questions on their effectiveness arise, including on matters related to their legal enforceability and political support. Indeed, not all companies and employees are covered by the collective agreement, unless this is declared generally binding, thus, not all companies in the construction sectors could be covered by a potential 'interoperability clause'. Similarly, an industry-level arrangement establishing interoperability between two social ID card schemes might not be binding to all employers in the construction sector especially considering those who are not members of the employers' organisations that have concluded the arrangement.

From an internal market perspective, the bilateral agreement approach raises concerns regarding compliance with key EU principles, including non-discrimination and the prohibition of unfair restrictions on competition under the Services Directive. As mentioned above, an agreement that facilitates interoperability exclusively between two Member States could result in unintended distortions within the internal market. By conferring competitive advantages to businesses and workers operating within the two participating countries, such agreements risk undermining the prin-

²⁰ Bollettino ADAPT, "Il Progetto COLBAR-Europe : uno sguardo sulla contrattazione collettiva di 25 paesi dell'Unione Europea", June 2021. Available at: <https://www.bollettinoadapt.it/il-progetto-colbar-europe-uno-sguardo-sulla-contrattazione-collettiva-di-25-paesi-dell'unione-europea/>.

principle of equal access to market opportunities for service providers and workers from other Member States not part of the agreement. However, in terms of feasibility, these challenges do not necessarily render bilateral agreements impracticable. Instead, they highlight the need for careful drafting to ensure that workers and companies from non-participating Member States are not placed at a disadvantage in exercising their freedom to provide services or seek employment opportunities. By incorporating specific safeguards, such as a non-exclusivity provisions and ensuring the possibility for all workers/companies to easily obtain the relevant social ID card, such agreement could achieve the intended interoperability while mitigating risks of discrimination and market distortion.

In terms of potentiality of bilateral agreements, this is the least comprehensive option presented in this Report since it would entail the interoperability of only two social ID cards. One important advantage of bilateral agreements between two countries with similar systems is that they significantly reduce the complexity of ensuring legal compliance. By connecting only two social ID cards operating under comparable legal, technical and administrative frameworks, many of the challenges related to data quality standards can be more easily addressed. For instance, differences in data categories collected, retention periods and verification mechanisms, which would be more evident in a multilateral setting, are easier to align between two systems that already share common features. Furthermore, a bilateral context simplifies the negotiation of data protection arrangements under the GDPR, including the establishment of joint controllers agreements or clear roles between data controllers and processors. Therefore, bilateral agreements could serve as a pragmatic initial step for testing interoperability frameworks and to understand in practice how such an agreement should be drafted to comply with both the national and the EU legal frameworks. The experience gained from such an agreement could inform the development of more bilateral agreements with similar social ID cards or a more robust and scalable interoperability solution in the future. The considerations presented in this section regarding bilateral agreements are also applicable to multilateral agreements, concluded between more than two parties. These latter agreements could constitute a further development of initial bilateral agreements in order to gradually scale up the connection between social ID cards.

2.2 DATA SPACE

This option will be assessed in light of the operational tasks identified in Section 1.2, including its potential to support identification, training recognition, social security coordination and enforcement.

2.2.1 Definition of a data space

Another option for the implementation of an interoperable system of national social ID cards in the construction sector is through the development of a data space, accessible to all relevant stakeholders (e.g., social ID card providers, trade unions, employers, national inspection authorities). For the purposes of this report, a data space is to be understood as a *federated, open infrastructure for sovereign data sharing based on common policies, rules and standards*.²¹ In the absence of a formal or legal definition of a 'data space', multiple definitions have been proposed by technical experts – the one adopted for this Report has been chosen for reasons of clarity and simplicity. All proposed definitions converge around a set of key principles: federation/interoperability, data sovereignty and governance through common rules.

The federated character of a data space implies that all participants are loosely connected in terms of technical integration through the use of common standards, which ensure their technical, semantic and legal interoperability. Technical interoperability covers the applications and infrastructures linking systems and services, while semantic interoperability refers to the meaning of exchanged information, ensuring that all parties understand its format and interpretation.²² Legal interoperability refers to the ability of organisations operating under different legal frameworks to work together.²³

In layman terms, this format is designed to accommodate different types of stakeholders, each employing their own social ID card scheme without requiring complete harmonisation. Moreover, the design of a data space ensures that each participant retains control (sovereignty) over their own data and its use. Adherence to a set of policies, rules and standards commonly and democratically agreed upon by the participants, enhances trust, both in the data sharing process and amongst the involved stakeholders. Trust enables par-

21 Abel Reiger, Crispin Niebel and Peter Kraemer, 'What is a Data Space? Definition of the Concept Data Space – White Paper 1/2022' available at: <https://gaia-x-hub.de/wp-content/uploads/2023/11/GX-White-Paper-Data-Space.pdf>.

22 European Commission, 'New European Interoperability Framework – Promoting seamless services and data flows for European public administrations' (2017) available at: https://ec.europa.eu/isa2/sites/default/files/eif_brochure_final.pdf.

23 *ibid.*

ticipants to make informed decisions about how, when and with whom to share data. These features enable the data space to act as a collaborative environment, where different participants can securely share, access and exchange data, while retaining control over their own data.

There are multiple aspects ('building blocks') which come together in the creation of a data space: governance choices, business models, legal and contractual frameworks, as well as the technical concepts. For the purposes of this Report, only the former three aspects will be discussed – the technical characteristics of a data space are assessed as part of the Technical Feasibility Report pertaining to this Study. As such, the following sections will discuss the types of participants that may be involved in a data space, and the choices on objective and governance, business model, and legal framework that should be considered in setting up the data spaces. The section then continues with a presentation of the options for joining the data space and the roles to be undertaken in that environment. Lastly, the GAIA-X technical solution is considered, leading to the conclusion of this section on the feasibility of adopting a data space for the objective of achieving an interoperable system between social ID card schemes in the construction sector across different EU Member States.

2.2.2 Setting up a data space – types of participants

A data space is a private collaborative initiative developed to achieve an objective common to different stakeholders – therefore, different types of stakeholders can participate, irrespective of their nature or characteristics, as long as they agree with the objective and common rules and standards of the data space.

As discussed in Section 3.1.1 of this Report, social ID card schemes at national level are managed by different types of entities. The most important distinction can be drawn between public and private entities, as some national schemes are implemented through public authorities, while others are operationalised by social partners. However, as a data space can be established on the basis of a public-private partnership, both public authorities and social partners can participate. There are already data spaces, in sectors other than construction, where public and private entities

collaborate – for example, the Mobility Data Space, which connects industry representatives, academic institutions and public agencies/authorities.²⁴

While all types of stakeholders can participate in a data space, their internal process to join may differ, depending on their public or private character. Two scenarios are discussed below:

- **Social partners as members of a data space:** Beyond playing an authority role in the enforcement of rights at national level, social partners also represent the interests of European workers and employers. Therefore, they are bound in their decision-making by the will of their respective constituents. The decision-making process of each social partner is defined through their internal statutes and regulations and may involve consultations or internal votes. Overall, irrespective of the internal processes for reaching this decision, joining a data space can be considered feasible where there is a common political will within such an organisation to do so, and where the organisation possesses sufficient resources to take on this task. This rationale also extends to bodies managed by social partners. Based on the mandate of that internal decision, the social partner would follow the avenues discussed in Section 4.2.6 below.
- **Public entities as members of a data space:** Some national social ID card schemes are implemented by public entities (e.g. governmental agencies). For these entities, the decision-making process can be more complex and may require action at governmental or legislative level. In most cases, a legal mandate for the public authority to join the data space may be required. The national legal framework of each Member State regulates the procedures for public authorities to enter into agreements or collaborations with public or private representatives from other Member States. Similarly, based on the outcome of that procedure, the public authority would follow the avenues discussed in Section 4.2.6 below.

To conclude, different entities may face different paths, some more complex than others, to becoming a member of a data space. This process is dependent on the national and organisational context of each stakeholder. However, no formal legal obstacle has been identified which could prevent a public authority or a social partner from becoming members of the data space.

²⁴ Website of Mobility Data Space, available at: <https://mobility-dataspace.eu/>.

2.2.3 Setting up a data space – objective and governance

Having established that both private and public entities can participate in a data space, it is important for the interested stakeholders to consider what the objective(s) and added value of this initiative would be, and whom it would benefit. As the data space can be modelled to serve multiple objectives, for different national or labour contexts, it is important for the participants to agree on the functions they wish to implement, and the objectives to be prioritised. For example, it could be discussed whether the role of the data space is to aid in labour mobility (e.g. portability of A1 documents, reducing administrative burdens), or whether it should also play a role in documenting contracting chains and/or reducing undeclared work. In a similar vein, the parties could, for example, discuss whether to prioritise accountability and enforcement, over efficiency or flexibility.

With this list of objectives in mind, the organisational form and governance model of the data space are to be agreed upon. The Data Spaces Support Centre, an expertise hub funded by the European Commission, recommends parties interested in setting up a data space to consider the following questions²⁵:

- Should the future data space be a permanent or temporary (even if multiyear) establishment?
- Should the future data space have a legal personality?
- Does the future data space aim to generate profits for its members (i.e. the legal entities that create it)?
- What country will be the primary place of establishment (i.e. headquarters) of the future data space?
- What level of involvement does the members of the data space initiative want to have in managing and operating the future data space?

In addition to these questions, the interested parties should also consider the potential trade-offs (e.g. costs, complexity or flexibility) they are willing to accept. Building on this basis, the following sections distinguish between data spaces with and without legal personality,

taking stock of the implications associated with each of these two types and the open questions that arise.

A data space without legal personality

Without legal personality, the data space could be created using various contractual arrangements or consortium/alliance agreements amongst the parties. Most importantly, this choice entails that the data space must have a **temporary character**. Unincorporated cooperations do not have their own resources and must rely in all respects on their members, who also retain legal liability and ownership rights. This in turn also entails that all new agreements (e.g. accepting new members, contracting services) require the consent and signature of all members, which may prove cumbersome if the purpose of the social ID card system is to extend to all EU or EEA Member States.

To align and coordinate between the individual members, a Governance Authority would need to be established – the form and membership of this body remains entirely to the discretion of the participants. To ensure the representation of the interests of all parties, this governing body could take the form of a 'general assembly', to which all participants are members, with equal voting rights (e.g., one vote per entity). Decisions could be taken by unanimity or by (qualified) majority, in accordance with the internal rules to be agreed upon by the parties when setting up the cooperation agreement.

While the structure and functioning of a data space without legal personality do not conflict with the objective of an interoperable social ID cards systems, its temporary character and complex contractual framework could constitute obstacles in the smooth-running of this initiative. For example, all contractual agreements between the parties would require amendment when a new member joins. Moreover, the data space initiative would not have legal ownership over any of the results, nor could it incur liability – detailed rules would have to be adopted setting out the rights and liabilities of each participant. Therefore, this option may be more feasible for data spaces with fewer participants. In practice, this type of data space could be created as a 'trial', connecting a few national social ID card schemes. Based on the results and the will of the participants, the data space could be incorporated and become a stand-alone entity with legal personality.

²⁵ Data Spaces Support Centre, 'Organisational Form and Governance Authority' (7 March 2025) available at: <https://dssc.eu/space/BVE2/1071253671/Organisational+Form+and+Governance+Authority>. The Data Spaces Support Centre is an expertise hub funded by the European Commission as part of the Digital Europe Programme, which is designed to assist companies and the public sector to create common European data spaces. Its work focuses on defining common requirements for the functioning of data spaces and establishing best practices, providing a collection of data space assets and a Help Centre for stakeholders interested in setting up a data space.

A data space with legal personality

Generally, data spaces designed as a permanent establishment require legal personality – either as a new person or based on an existing legal person. Given that the broader purpose of the data space is to achieve interoperability among the national social ID cards schemes, it is recommended that this structure be incorporated as a legal entity (e.g., an association) to ensure its longevity. The data space could be incorporated under any of the legal frameworks of the EU Member States or could be created under EU law. Legal personality for the data space entails, *inter alia*, that the new entity can enter into contractual relationships with other legal entities, benefit from legal rights and be held liable for its own obligations.

This type of data space will also require a Governance Authority, which will take and execute strategic decisions, manage the daily operations of the organisation, or represent it in relation to third parties. There are multiple structures and bodies that could perform that function. Three options for incorporating a data space are presented below. For each, formats for the structure of the Governance Authority are also proposed, which have been chosen bearing in mind the different stakeholders involved in the social ID cards schemes across the Member States.

A first option would be for the data space to be **incorporated as a stand-alone, independent entity**, with no ties to other organisations. The organisation would be managed by a general assembly and an executive body. The members of the general assembly would be representatives of the different entities (social partners and authorities) overseeing the implementation of national social ID card schemes. To ensure balance in perspectives, equal representation of social partners and national authorities is recommended. The general assembly would elect or appoint the members of the administrative body, which would be tasked with the daily operation of the organisation. This structure would ensure the equal standing and impartiality of the members of the executive body, making it suitable for a private-public sector collaboration.

Secondly, the data space could still be incorporated as a stand-alone, independent entity, but its **executive**

functioning and governance could be outsourced to a third party, which would operate on a for-profit basis.

This economic operator could act as the executive body of the data space, taking responsibility for the daily operations of the organisation and for the execution of strategic decisions, which would be taken by the general assembly. This option would still guarantee the control of the data space participants over its functioning, while ensuring the efficiency and complete independence of the executive body. The third party could also provide important expertise for the setting up and development of the data space, which may not be immediately available to the participants, whose focus is predominantly on labour matters.

Lastly, the data space could be incorporated as a **European Cooperative Society (SCE)**. A SCE is a legal entity that allows its members to carry out common activities, while preserving their independence. Framework rules on the form and governance of a European Cooperative Society are set out through Council Regulation 1435/2003.²⁶ This type of society can be created by natural persons, by legal entities, or by a combination of the two, provided that the members come from at least two different Member States. In the context of the social ID cards initiative, it is expected that the members will be legal entities. Moreover, both private and public entities can join this type of cooperative society – therefore, this option for the incorporation of the data space would suit the objective of achieving interoperability between national social ID card schemes managed by either social partners and/or public authorities. The governance structure of a SCE is set by the Regulation, as comprising a general meeting and one of the options below²⁷:

- a) **a supervisory organ and management organ (two-tier system):** Under this system, the members of the supervisory organ are appointed by the general meeting.²⁸ The supervisory organ then appoints the members of the administrative organ and oversees their management of the SCE.²⁹ It is important to note that the supervisory organ itself does not manage the SCE.³⁰ The management organ is responsible for that role and also for representing the SCE in relation to third parties.³¹ The two bodies are independent of each other and their members cannot be part of both.³² Under this mod-

26 Council Regulation (EC) No 1435/2003 of 22 July 2003 on the Statute for a European Cooperative Society (SCE) [2003] OJ L207/1, available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32003R1435>.

27 *ibid*, article 36.

28 *ibid*, article 39(2).

29 *ibid*, article 39.

30 *ibid*, article 39.

31 *ibid*, article 37(1).

32 *ibid*, article 37(3).

el, all participants to the data space would form part of the general meeting, which would elect the supervisory organ. It is for the participants to the data space to determine how many members the supervisory and management organs should have.

- b) **an administrative organ (one-tier system):** Under the one-tier system, the members of the administrative organ are chosen by the general meeting.³³ They manage the SCE and represent it in dealings with third parties. The decisions taken by the administrative organ are not subject to the oversight of the general meeting – therefore, the daily running and functioning of the data space would be delegated to this elected body. It is for the participants to the data space to determine how many members the management organ should have.

Both options are feasible and suitable for the overall purpose of this initiative – the choice remains solely to the discretion of the parties interested in setting up the data space. It must however be noted that incorporating as a SCE requires a minimum subscribed capital of €30,000.³⁴ This financial aspect must be duly considered by interested parties, which may share the costs amongst themselves or seek external funding, in accordance with their needs.

All three organisational forms described above are suitable to the objective of developing a data space, as a collaborative space between social partners and/or public authorities for the purpose of achieving interoperability between national social ID card schemes. As highlighted for each model, they are characterised by their own particularities, which must be duly considered by the parties interested in setting up the data space. The final decision in this regard will be taken by these parties, based on their interests, objectives and dependencies.

2.2.4 Setting up a data space – business models

With the clear objective of the data space in mind, the interested parties should also assess how the data space generates value, for data providers and/or for users. Simply put, what are the benefits (economic, social, financial or others) of creating the data space?

Prima facie, the data space could create value for individuals (employees and employers), by reducing

administrative and compliance costs associated with posting workers and proving their compliance with labour law and social security regulations. For public authorities, the data space could reduce enforcement costs, improve monitoring of the construction sector and potentially reduce illegal labour practices. These are just preliminary ideas on the added value of the scheme, to be further explored by the founding parties, through economic modelling and feasibility studies. By quantifying the potential reductions in administrative costs, time spent on manual verification and non-compliance risks, as well as the improvements in worker protection and OSH compliance, an estimation could be provided of the benefits associated with participation in the data space.

The interested parties should also consider what are the sources of income, revenue and the cost structure of the data space. A data space can operate either as for-profit or as not-for-profit – this decision, which is to be taken by the founding parties, is the guiding principle for the development and specification of the business model. It must however be noted that for-profit status may exclude, or encumber, the participation of public bodies in the data space. Questions to be considered include: how will the data space be funded – is there a possibility for it to benefit from public funding? Should members to the data space participate with their own funds, through membership fees? Beyond the economic dimension of these questions, there is also a political aspect related to the availability of resources and willingness of the parties to contribute that may influence this decision. Therefore, it is important for the interested parties to carefully consider the financial aspect and the sustainability of the business model they wish to adopt, both in the short and long term.

2.2.5 Setting up a data space – legal compliance and contractual framework

Data spaces exist at the intersection of complex legal and regulatory frameworks, the application of which may be triggered by the type of data shared within the data space, or the types of participants. Moreover, sector-specific legislation, such as social security or labour regulations applicable to the construction sector, could be of relevance to the data space.

Firstly, it can be safely concluded that the data space for social ID card schemes will be processing the personal data of the workers, as well as of other partici-

³³ *ibid*, article 42(3).

³⁴ *ibid*, article 3(1).

pants (i.e. labour inspectors, or employers). Therefore, compliance with the GDPR will need to be ensured.³⁵ Most importantly, the processing of personal data within the data space must be based on a specific legal basis, in accordance with article 6 GDPR.³⁶ The mapping of national social ID card schemes undertaken as part of this project has illustrated that different social ID card schemes rely on different legal bases for processing – voluntary schemes operationalised by social partners predominantly, operate on the basis of the consent of the workers, while those imposed by public authorities rely on legal obligation and/or on performance of a task carried out in the public interest or in the exercise of official authority.³⁷

The choice of legal basis will depend on the character of the data space – if participation is voluntary, consent of the workers could be considered as a legal basis. This does not mean that participation in the national social ID card scheme would become voluntary – rather, where national mandatory schemes exist, the worker would just have the choice to take the additional step and consent to the sharing of his/her information with the data space, or not to and remain only within the national system. Given the hierarchical relationship inherent in an employment context, additional safeguards would have to be implemented to ensure that the consent of participating employees has truly been given in a free and informed manner, with no pressure or fear of repercussions.³⁸ This option is considered to be most feasible for the inception phase of the data space, as mandatory participation could give rise to cumbersome questions on the proportionality of the intrusion with workers' right to personal data protection, as well as with the choice of legal basis, in lieu of a European legally binding instrument mandating the use of the data space.

Secondly, the participation of public sector bodies in the data space could trigger the application of specific obligations to share certain categories of data, not only with data space participants, but with other potential users outside the data space as well. Such obligations can, for example, be traced to the Open Data Directive and the Data Governance Act.³⁹ If public sector authorities will join the data space, it is important to consider

whether the data they provide falls under their data sharing obligations and how they can discharge both their responsibilities towards the data space and those they incur under EU data sharing legislation.

Lastly, the creation of the data space may play a role in the application and enforcement of social security and labour legislation. The research carried out as part of this Study showcases no contradictions or hindrances between the use of a data space and these areas of regulation. Rather, it is considered that this initiative has the potential to become a positive policy development, which strengthens the enforcement of social security and labour legislation, as well as internal market legislation at European level. Nonetheless, it is important that the parties to the data space continue to monitor the legislative and policy developments in the construction sector to ensure compliance with sectoral legislation.

Beyond complying with external rules, the data space also requires internal rules, to regulate its organisation and membership, the rights and responsibilities of parties, or the division of profits and liabilities. These aspects are regulated through the contractual framework of the data space, which can be understood as the 'Constitution' of the data space. The contractual framework of the data space consists at least of the following parts:

- **Constitutive Agreement:** it is the legal foundation for the data space. Through this document, the founding parties agree on the background, purpose and organisation of the data space, as well as on the applicable laws and mechanisms for dispute resolution. The Constitutive Agreement also regulates the possibility of new members joining the data space, through Accession Agreements (see below).
- **General Terms and Conditions:** they set out the definitions, role-specific responsibilities (for data providers, service providers, data users and operators), as well as general responsibilities of all parties (e.g. data protection). Through this document, the parties to the data space also regulate aspects such as confidentiality obligations, intellectual property rights,

35 General Data Protection Regulation (n X); Agencia Española de Protección de Datos, 'Approach to data spaces from GDPR perspective' (2023) available at: <https://www.aepd.es/documento/approach-to-data-spaces-from-gdpr-perspective.pdf>.

36 General Data Protection Regulation (n X), article 6.

37 *ibid*, article 6(1)(a, c, e).

38 Article 29 – Data Protection Working Party, 'Opinion 2/2017 on data processing at work' (2017) available at: <https://ec.europa.eu/newsroom/article29/items/610169>; Article 29 – Data Protection Working Party, 'Opinion 8/2001 on the processing of personal data in the employment context' (2001) available at: https://ec.europa.eu/justice/article-29/documentation/opinion-recommendation/files/2001/wp48_en.pdf

39 Directive (EU) 2019/1024 of the European Parliament and of the Council of 20 June 2019 on open data and the re-use of public sector information (recast) [2019] OJ L172/56, available at: <https://eur-lex.europa.eu/eli/dir/2019/1024/oj/eng/data> Regulation (EU) 2022/868 of the European Parliament and of the Council of 30 May 2022 on European data governance and amending Regulation (EU) 2018/1724 [2022] OJ L152/1, available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32022R0868>.

apportionment of liability, or the termination of the data space. Therefore, to set up a data space connecting the national social ID cards, the interested parties must also reflect and decide upon these legal aspects.

- **Governance Model:** it describes the procedures and mandates for managing the data space – this document governs the actions, rights and responsibilities of the Data Space Governing Authority. This agreement codifies the decision made by the interested parties in terms of governance; this step was discussed under Section 4.2.3. The Governance Model agreement substantiates that decision, touching upon, for example, the composition of the executive bodies or their voting procedures (e.g., quorum requirements, qualified majority).
- **Accession Agreement:** it is the contract to be signed by stakeholders who express interest in joining the data space later in its lifecycle. This Agreement binds the acceding party to the contractual framework of the data space and is to be signed by them and the Data Space Governing Authority. The option for new parties to join the data space is of great importance in the context of this initiative, as it enables the gradual expansion of the data space to a pan-European scale, connecting as many social ID card schemes as possible and desired. For that reason, the founding parties should pay due regard in regulating this aspect, to ensure that the process is flexible enough to accommodate new participants, with different characteristics (e.g. is the process fit for purpose if a public authority wants to join the data space, to which only social partners were previously participating?).
- **Dataset Terms of Use:** they allow the parties to set conditions and requirements for the provision and use of data within the data space. For example, in the context of the social ID cards initiative, the founding parties can lay down an exhaustive list of purposes of the use of the data, as well as restrictions that prohibit the use of the data for other purposes. Moreover, the founding parties can also mandate data security measures, confidentiality obligations, or data protection requirements. In relation to the social ID cards initiative, the founding parties can, *inter alia*, use the Dataset Terms of Use to regulate who (e.g., the workers, labour inspectors, employ-

ers, social security authorities?) can access which categories of data, when and how.

To facilitate the process of setting up the data space, multiple data spaces associations have published templates for this contractual framework. In setting up the data space connecting the national social ID card schemes, the founding parties may, for example, refer to the templates published by Sitra, which are endorsed by the International Data Spaces Association (IDSA).⁴⁰

2.2.6 Rulebook for the data space

The contractual framework of the data space, described in 4.2.4(II), is only one subset of the common standards that govern a data space. The central document that defines and governs the data space is the Rulebook – this document legally binds the parties and outlines the legal, business, technical and organisational rules that participants to the data space must adhere to. Acting as a practical guide to the data space, the Rulebook typically includes information on the governance framework, legal terms and conditions, business model and value flow, technical specifications, operational procedures, code of conduct and data usage policies. Some of these aspects have already been touched upon in the previous sections – others, of a technical nature, are the subject of the Technical Feasibility Report associated with this Study. The drafting of the Rulebook is an important step for the founding parties, as this document codifies their choices for the data space. To facilitate that process, the founding parties may draw inspiration from the Rulebook published by ISDA and from Sitra's work.⁴¹

2.2.7 Joining a data space

As hinted above, joining a data space can take place at any point of its lifecycle, leading to a distinction between the founding parties and the others. However, it should be noted that all members are to be equal in the decision-making processes that govern the data space and must comply with the same regulations.

The founding parties are the members which set up the data space through the Constitutive Agreement. This position enables them to decide upon the func-

40 Sitra, 'Rulebook model for a Fair Data Economy – Part 2: Templates. Version 3.0' (2025) available at: <https://www.sitra.fi/wp/wp-content/uploads/2025/06/rulebook-model-for-a-fair-data-economy-part-2-v3e.pdf>.

41 International Data Spaces Association, 'IDSA Rulebook' (last updated 2024) available at: https://docs.internationaldataspaces.org/ids-knowledgebase/idsa-rulebook/idsa-rulebook/1_introduction#the-purpose-and-scope-of-the-rulebook; Sitra, 'Rulebook model for a fair data economy. Version 3.0' (2025) available at: <https://www.sitra.fi/en/publications/rulebook-for-a-fair-data-economy/>.

tioning and design of the data space, thus enjoying a margin of discretion and control over its development. However, this position also comes with the risks and responsibilities associated with starting a new venture: finding the suitable governance structure, ensuring all legal requirements are met, adopting technical standards, finding sources of financing and promoting the data space.

The other parties are the members which have joined the data space later, through the Accession Agreement. They had no influence over the fundamental decisions which shaped the data space, having to accept them as they were laid down through the Rulebook of the data space when they acceded. In that sense, the founding parties enjoy the discretion to lay down conditions for joining the data space that must be met by entities in acceding to the data space. These members must adapt their own processes and interests to fit the structure of the data space, adopting the technical and legal standards set by the founding members, and proving compliance with the requirements for accession.

2.2.8 Roles in the data space

Another distinction, based on function, can be drawn between the participants in a data space, as follows:

- **Data providers:** entities providing data to be shared with the others.
- **Data recipients:** entities using the data shared by the providers.
- **Data Space Governance Authority:** entity overseeing the organisation and running of the space.
- **Service provider:** entity providing services to the data space.

Depending on the context and their own objectives, all participants can act as both providers and recipients, or just as one of the two. In the context of a social ID cards data space, this means that some participants can only receive information on construction workers, without providing any in return (for example, where their purpose is simply to check the information (e.g. labour inspectors) or where they do not have a social ID card scheme in place already). On the other hand, the Data Space Governance Authority (as discussed

under Section 4.2.3) and the service provider are roles of a fixed nature. The flexibility in terms of providing and receiving data is an important feature of data spaces that facilitates the participation of Member States without social ID cards. This aspect is further discussed under Section 4.2.8.

2.2.9 Participation from Member States without social ID cards

As highlighted above, not all members to the data space must act as data providers. In the context of the social ID cards initiative, this means that entities whose only interest is in accessing and checking workers' data can also join the data space. For example, labour inspectorates can participate only as data receivers, for the purpose of checking workers' and employers' compliance with labour and social security laws.

However, on a greater scale, this flexibility in roles and responsibilities also entails that interested entities from Member States which have not yet adopted a social ID card scheme may join the data space, as data receivers. The scope of data receivers' participation depends on the purposes and objectives of the data space, as set out by the founding parties. For example, public authorities from such Member States may participate as receivers of workers' data, for the purposes of reducing administrative burden in the context of the PDA1 procedure.⁴²

Beyond accessing the advantages associated with the sharing of data, participation in the data space for representatives from Member States without social ID cards can also represent a good opportunity to gain insight into the functioning of such a scheme and its potential benefits. The data space can function as a hub for sharing knowledge and best practices, providing support and incentive for the development of new national social ID card schemes.

2.2.10 GAIA-X: a solution for the Data Space

The process of developing and implementing a data space entails a complex landscape of questions, decisions and standards to be addressed. While the founding parties can choose to do this independently, the process may be difficult, even proving itself unworkable. It is thus recommended that the data space

⁴² Regulation (EU) 2018/1724 of the European Parliament and of the Council of 2 October 2018 establishing a single digital gateway to provide access to information, to procedures and to assistance and problem-solving services and amending Regulation (EU) No 1024/2012 [2018] OJ L295/1, available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02018R1724-20250119>; the PDA1 certificate shows which national Social Security and Labour Law legislation a worker is subject to.

be developed in the context of an already established structure, which can provide the necessary technical and legal guidance and tools to facilitate this process. Such a solution can be provided by GAIA-X, a privately funded non-for-profit association which develops specifications, rules, policies and verification frameworks that enable the implementation of data spaces.⁴³

The tools developed by GAIA-X aim to address both the question of trust amongst data space participants and the question of trust in the data itself and its use. As all data space participants must comply with the minimum technical rules developed by GAIA-X (GAIA-X Trust Framework) and provide evidence of their compliance, it is ensured that all participants 'speak the same language'. It is however still within the discretion of the data space founders to define the objectives, terms and conditions, policies and rules that define the data space, with the caveat that all members must agree to follow the minimum technical standards developed by GAIA-X. Beyond these minimum standards, the data space founders may however impose further requirements, which can be tailored specifically to the context and objectives of the interoperable social ID card schemes system. The task (and discretion) of developing the Rulebook of the data space therefore relies with the founding parties to the data space.

The GAIA-X technical standards are designed considering the need for legal, organisational, semantic and technical interoperability between the participants to the data space, in accordance with the European Interoperability Framework,⁴⁴ and more specifically:

- **Legal interoperability:** ensuring that entities operating under different legal frameworks are able to work together, with no legislative barriers.
- **Organisational interoperability:** aligning business processes, responsibilities and expectations, as well as the information exchanged.
- **Semantic interoperability:** aligning the format and meaning of exchanged data to ensure that 'what is sent is understood'.
- **Technical interoperability:** aligning applications, infrastructure linking systems and services.

Compliance with the standards developed by GAIA-X is a minimum requirement for participation to the data

spaces the organisation supports. Compliance can be proven through self-declaration or through certificates and is monitored and verified by entities authorised by GAIA-X, referred to as 'Clearing Houses'. The parties to the data space can however impose additional requirements or standards for participation in the social ID cards data space.

Reliance on the GAIA-X standards reduces the burden of figuring out the appropriate technical tools and standards for the founding parties, while allowing the flexibility and discretion for them to design the data space in accordance with the interests, needs and objectives of the initiative for interoperable social ID card schemes. During the stakeholder consultation carried out as part of this Study, it was indicated that the feasibility of adhering to GAIA-X standards and relying on their expertise is to be further discussed with representatives of the association, as soon as a clearer picture of the needs and format of the data space exists. Therefore, it is recommended that the parties interested in developing such a data space firstly agree on the objectives, business model, governance and legal compliance aspects discussed under Sections 4.2.3 to 4.2.5. of this Report before deciding whether to rely on support from GAIA-X.

2.2.11 Conclusion on the feasibility and desired impact of the option

The feasibility of developing a data space for achieving interoperability between social ID cards in the construction sector must be assessed in light of the potential benefits, as well as the costs and efforts required for its implementation. As described above, a data space is a flexible structure that can accommodate different types of participants (e.g. social partners, public authorities), different types of roles (acting only as a data provider or a data receiver, or as both) and different types of organisational structures and business models. This level of flexibility increases the suitability of using a data space to achieve the objective of this initiative, given the ability of the members to adapt its functions and structure to their needs and interests.

From the perspective of the decision-making process necessary to implement this option, certain legal challenges require further assessment. For example, the participation of national authorities, may, depending on the national context, require amendments to the

⁴³ <https://gaia-x.eu>.

⁴⁴ European Commission, 'New European Interoperability Framework – Promoting seamless services and data flows for European public administrations' (2017) available at: https://ec.europa.eu/isa2/sites/default/files/eif_brochure_final.pdf

national legislation or adoption of legal mandates. This procedural step may negatively impact, or reduce, the ability of public bodies to join the data space, depending on political will at national level and the complexity of the administrative framework. While public authorities from some Member States are already participating in some data spaces, it cannot be guaranteed that all national administrations can, or are willing to, undertake the steps necessary to found or accede to a data space. It is therefore considered more feasible for the data space to be implemented only between social partners, at least in its inception phases, due to their independence in decision-making.

Furthermore, from the internal market perspective, the question of compliance with personal data protection legislation will also require further consideration, upon clarification of the specifics of the data space. While this aspect is not considered a legal obstacle, it still must be carefully considered, in light of the discussion in Section 4.2.4. on legal bases for processing personal data and workers' consent. It must be highlighted that the data space option is also positively aligned with the digitalisation and competitiveness objectives and priorities of the European Union, thus further showcasing its synergies with EU policies.⁴⁵

The costs and efforts associated with setting up the data space directly relate to political will. While the workshops organised as part of the technical feasibility component of this Study indicate that there is some interest at national level in this option, it is important to consider that setting up a data space requires a sustained level of effort and cooperation between the founding parties, as well as positive responses to all the steps that are part of this process. Depending on the political will and resources of the parties, issues may arise in relation to the financing of the data space, or the availability of members to seek expertise in designing the technical standards. For example, the effort of participating in the data space may prove rather cumbersome for social partners with limited technical staff or for smaller public administrations. While reliance on the GAIA-X framework will reduce some of these costs, it is still important to consider that developing this option, which is complex from both legal and technical perspectives, will require substantial effort.

The use of a data space is however optimal in terms of scope and scale, as its use can allow for immediate exchange of various categories of data, between as

many parties as interested. This feature would strongly enhance enforcement abilities at national level, allowing for better transparency, accuracy and access to workers' documentation. Based on the design of the data space, differences in categories of data collected, retention periods and verification mechanisms could be accommodated, enabling trust between participants and allowing them to pick and choose only the data points that correspond to their requirements (for example, only using data provided by others that has been verified by a national authority, or which only relates to a certain topic). Moreover, the flexibility in roles (data providers vs. data users) further enhances this benefit, as this option can be used to involve even representatives from Member States which have not yet adopted a social ID card scheme.

Depending on the initial size and scope of the dataset, its adoption and implementation could be faster or slower – it is important to note that this option is not dependent on the adoption of EU legislation; therefore, the timeframe is mainly dependent on the willingness of the founding parties. At first, a pilot data space could be implemented between a few, select national systems – based on its results, the project could be expanded to cover more national systems, through the accession procedure.

2.3 CREATION OF A NEW SHARED SCHEME BETWEEN ALL OR SOME MEMBER STATES

In addition to the options explored in this Report regarding the interoperability of existing national social ID cards, a further potential pathway could be the creation of a new, shared social ID card scheme jointly adopted by social partners at European level. Rather than seeking to interconnect the diverse schemes already existent, this approach would entail the negotiation and adoption of a common framework for a new social ID card managed by the social partners at EU level in the construction sector. This section presents how such an initiative could be pursued under the current EU legal framework, the mechanisms available to social partners and the key characteristics and legal considerations involved.

This option will be assessed in light of the operational tasks identified in Section 1.2, including its potential to support identification, training recognition, social security coordination and enforcement.

⁴⁵ European Commission, 'Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Region – A European Strategy for Data' (2020) available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52020DC0066>.

2.3.1 Autonomous agreement between national social partners for a shared social ID card scheme

The EU encourages the cross-border social dialogue between social partners, and the TFEU includes some provisions to support and facilitate the conclusion of so-called 'autonomous agreements' between social partners. The term 'autonomous agreement' refers to an agreement between the European social partners that is the outcome of negotiations between representative social partner organisations rather than being the result of a political decision-making process conducted exclusively within the framework of the official EU institutions. The process for producing and implementing such agreements is set out in Articles 154 and 155 of the TFEU.⁴⁶ The main feature of autonomous agreements is that they are implemented not by EU law but 'in accordance with the procedures and practices specific to management and labour and the Member States' (Article 155(2) of the TFEU).⁴⁷ In essence, autonomous agreements reflect a form of self-regulation by the social partners at European level. They embody the principle that employers' and workers' representatives can take joint action independently of the EU's legislative institutions to regulate matters within their competence. Autonomous agreements differ from traditional EU legislation because they are negotiated and agreed directly between social partners, without the Commission making a legislative proposal. Although the Commission may facilitate or encourage negotiations, it does not control the content of the agreement.

Examples of past successful cross-industry autonomous agreements, not related to cards schemes, include the European Framework Agreement on Telework (2002), the Framework Agreement on Digitalisation (2020) and the Framework Agreement on Inclusive Labour Markets (2010).⁴⁸ An example of sectoral agreement on a similar topic to the one analysed in this Report is the autonomous agreement on the European licence for drivers carrying out a cross-border interoperability service (2004). Within this agreement, the social partners set up a European licence for drivers system aimed at: i) facilitating the interoperability of driving staff as a means to increase international railway traffic; ii) maintaining and increasing the level of safety; iii) contributing to the efficiency of the railway

companies' management of drivers in interoperability services; and iv) reducing the risks of social dumping.⁴⁹ This autonomous agreement has subsequently resulted in the adoption of Directive 2007/59/EC on the certification of train drivers operating locomotives and trains. These precedents demonstrate that autonomous agreements, both sectoral and cross-industry, can regulate complex transnational issues and can be effectively implemented through the structures of national industrial relations systems.

Two different procedures exist under Articles 154–155 TFEU for the implementation of agreements between European social partners:

- **Voluntary (autonomous) implementation:** social partners agree to implement the content of their framework agreement themselves, relying on national collective bargaining structures, sectoral agreements, or enterprise-level arrangements.
- **Implementation through EU law:** alternatively, social partners may jointly request the Commission to propose their agreement to the Council, which may then adopt it through a Council Decision (in practice, a Directive) for matters covered by Article 153 TFEU. This gives the agreement binding legal force at EU level. Examples of this path include the Framework Agreements on Parental Leave (1996, revised 2008), Part-Time Work (1997) and Fixed-Term Work (1999).

Amongst these two procedures, the first one appears to be the most flexible for the creation of a "shared" social ID card scheme between social partners. Nevertheless, the initial autonomous agreement could then be formally adopted also at EU level through the mechanism offered by Art. 155(2) TFEU.

For the creation of a new shared social ID card through an autonomous agreement between social partners, a few steps can be foreseen. Initially, European social partners in the construction sector - through dialogue facilitated either by themselves or, informally, with Commission support (Art. 154 TFEU) - would negotiate a European Framework Agreement defining the essential elements of the shared card scheme. This would involve reaching consensus on a range of issues, including the types of data to be included in the

⁴⁶ Consolidated version of the Treaty on the Functioning of the European Union - PART THREE: UNION POLICIES AND INTERNAL ACTIONS - TITLE X: SOCIAL POLICY, OJ C 115, 9.5.2008, available at: https://eur-lex.europa.eu/eli/treaty/tfeu_2016/art_155/oj/eng.

⁴⁷ Eurofound "Autonomous agreements", June 2021, available at: <https://www.eurofound.europa.eu/en/european-industrial-relations-dictionary/autonomous-agreement#:~:text=The%20social%20partners%20have%20established%20an%20EU-level%20framework,to%20management%20and%20labour%20in%20the%20Member%20States>.

⁴⁸ Ibid.

⁴⁹ European Parliament, Briefing on the Revision of Directive 2007/59/EC on the certification of train drivers operating locomotives and trains, p. 2. Available at: [https://www.europarl.europa.eu/RegData/etudes/BRIE/2023/747424/EPRS_BRI\(2023\)747424_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2023/747424/EPRS_BRI(2023)747424_EN.pdf)

card (e.g., employment status, social security affiliation, health and safety certifications), the technical specifications (e.g., digital card formats, interoperability standards) and mutual recognition obligations across borders.

Upon reaching an agreement, the social partners would be responsible for ensuring its implementation in accordance with the procedures and practices specific to the management of social dialogue and labour law within the Member States. This means that national social partners would take steps to incorporate the agreement's provisions into collective agreements, sectoral arrangements, or industry-level policies, depending on each Member State's industrial relations system. The shared scheme originated from the autonomous agreement would entail replacing existing national social ID cards or have multiples cards coexisting. The scheme could be implemented by an initial group of social partners interested in this initiative and then extended to potentially include all social partners across the EU. No formal legislative action at EU or national government level would be required for the agreement to take effect, public authorities could later support its implementation through recognition or cooperation agreements if needed. If the agreement appears successful and necessary for the construction sector, the procedure laid down in Art 155(2) TFEU could be activated, thus, the agreement could be formally adopted at EU level making it binding across the EU.

2.3.2 Main legal aspects to consider for the creation of the scheme

When designing a shared social ID card scheme through an autonomous agreement between European social partners, several key legal aspects must be carefully addressed.

As mentioned, two procedural routes exist for the implementation of such an agreement. The purely autonomous agreement is more flexible and ensures the autonomy of the social partners in regulating this tool. However, the effectiveness of implementation could vary significantly across Member States depending on the strength of national social dialogue systems and the level of organisation of the sector. The agreement implemented through EU legislation does not present the implementation issue of the purely autonomous one. However, this route would only be advisable if voluntary implementation proved insufficient to guarantee wide coverage and effectiveness, or if the social partners collectively deemed that stronger, uniform legal force was necessary across all Member States.

In both cases, several substantive legal issues must be considered when developing the framework of the shared social ID card scheme:

- **Data protection and privacy:** social partners should establish how the data can be shared and stored between participants to the agreements. This includes deciding between a centralised system—such as a single EU-level database updated by national social partners—or a decentralised model where each partner retains and manages their own data while ensuring interoperability. A centralised approach may offer greater consistency and ease of access but raises questions about governance, control, and cybersecurity risks. A decentralised system, on the other hand, can enhance national control and data sovereignty but may pose challenges in ensuring real-time access and harmonised data standards. Since the shared card would involve the processing of personal data related to employment, social security and training, strict compliance with the GDPR is mandatory. Clear rules regarding data minimisation, purpose limitation, data subject rights, data security, data validity and the division of responsibilities between data controllers and processors must be established in the agreement.
- **Voluntary vs mandatory nature:** the agreement should clarify whether the use of the shared card is mandatory for employers and workers in the sector, or voluntary but encouraged. The legal nature of obligations imposed at national level would influence enforceability and, therefore, main aspects of the agreement between social partners.
- **Recognition by public authorities:** although the agreement would be autonomous, strategies to secure acceptance by national labour inspectorates and other authorities should be included in the agreement, particularly regarding the value of the card in inspections or administrative procedures.
- **Interaction with existing schemes:** in Member States where national social ID cards already exist, the framework would need to foresee mechanisms for coexistence or gradual transition, avoiding legal conflicts and duplication of obligations.
- **Cross-border enforcement:** the agreement should address the mechanisms by which mutual recognition is ensured in cross-border situations, including the potential creation of common registries, verification platforms, or cooperation mechanisms between national sectoral organisations.
- **Integration with digital tools:** the development of the shared card should consider embedding it into

existing or emerging EU digital infrastructures, such as the European Digital Identity Wallets. This possibility largely depends also on the advancement of each Member State in the adoption of the necessary digital infrastructure. Such integration could enhance the scheme's usability, scalability and interoperability with national and EU-level digital services.

As noted in relation to the option of creating a data space (Section 4.2), the implementation of a shared social ID card scheme through an autonomous agreement would similarly require addressing aspects beyond the legal framework. In particular, the agreement would need to define elements such as the governance structure of the scheme, the conditions and procedures for participation and the underlying business model. Social partners would also need to take decisions on operational matters, such as the financing mechanism, the entity responsible for issuing the cards and other practical arrangements necessary to ensure the scheme's functionality.

Furthermore, as mentioned above, a key legal consideration relates to the binding force of an autonomous agreement establishing the shared scheme. Indeed, autonomous agreements are recognised under the Treaty and are encouraged as part of the EU's social dialogue framework, however, their effectiveness at national level depends to a great extent on the legal systems of Member States. In some countries, collective agreements concluded at European level are automatically recognised and can be directly applied, subject to the national rules governing collective agreements. In others, specific implementing measures, or new national or sectoral agreements would be necessary to ensure that the provisions of the European agreement are effectively implemented.⁵⁰

Another legal aspect to mention is the necessity for the agreement between social partners to comply with competition law rules, specifically with Art. 101 TFEU.⁵¹ In principle, collective agreements negotiated by recognised social partners to improve working conditions, such as the one establishing a common social ID card in the construction sector, are exempt from the prohibition on restrictive agreements under Article 101. The European Court of Justice has affirmed

that the objective of improving employment conditions places such agreements outside the scope of competition law.⁵² However, if the new shared social ID card scheme were to have effects beyond employment conditions, such as restricting competition between companies or creating exclusive access barriers to certain markets, it could potentially fall under scrutiny. It is crucial to ensure that the new scheme's objectives and application remain clearly within the framework of labour relations, avoiding any risks of breaching EU internal market and competition principles, as mentioned in the other sections of this report as well.

2.3.3 Conclusions on the feasibility and desired impact of this option

In assessing the feasibility of the creation of a shared social ID card through an autonomous agreement, several potential advantages may be identified. First, a new scheme would avoid the difficulties associated with the other options related to the compatibility of already-adopted social ID cards, especially in terms of their legal basis (voluntary and mandatory cards), authorities responsible for their management and compatibility of the data collected through the cards. Moreover, the establishment of an autonomous agreement between social partners would respect the principle of industrial autonomy, as set out in Articles 154 and 155 TFEU, allowing social partners to develop a sector-specific solution without necessarily relying on formal legislative processes. The flexibility of such an autonomous agreement could enable the scheme to be tailored to the particular needs of the construction sector and might allow, once the agreement is adopted, for faster development compared to more traditional legislative solutions. Its flexibility could also allow for an initial agreement between the first social partners of some Member States which could then be extended to the other Member States.

Nevertheless, important challenges would need to be considered. The effectiveness of the autonomous agreement is likely to depend heavily on national contexts: in Member States with strong traditions of sectoral social dialogue, direct recognition and application may be feasible; in others, specific national implementation measures or the negotiation of additional sectoral or enterprise-level agreements could be neces-

50 Alaimo and Caruso, „Social dialogue at European level: achievements and challenges, 2011, page 16-17, available at: https://aei.pitt.edu/32517/1/caruso_alaimo_n87-2011int.pdf

51 Consolidated version of the Treaty on the Functioning of the European Union - PART THREE: UNION POLICIES AND INTERNAL ACTIONS - TITLE VII: COMMON RULES ON COMPETITION, TAXATION AND APPROXIMATION OF LAWS - Chapter 1: Rules on competition - Section 1: Rules applying to undertakings - Article 101, OJ C 115, 9.5.2008, p. 88-89, available at: https://eur-lex.europa.eu/eli/treaty/tfeu_2008/art_101/oj/eng.

52 ECJ, Case C-67/96, Albany International BV v Stichting Bedrijfspensioenfonds Textielindustrie, ECLI:EU:C:1999:430, available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A61996CJ0067>.

sary, leading to variations in uptake and effectiveness across the EU. Another potential limitation is that, in the absence of formal legislative backing, the shared card might not automatically be recognised by national labour inspectorates or other authorities, which could affect its practical utility unless rules to secure such recognition are developed.

Moreover, a critical consideration concerns the relationship between the new shared social ID card and existing national cards. The introduction of a shared scheme would necessarily require a decision on whether the new card would need to coexist alongside national schemes or gradually replace them. In either case, the initial phase of implementation could likely be particularly challenging, especially in Member States where social ID cards are already regulated by law and integrated into public administrative procedures.

In addition, the operation of a cross-border identification system would inevitably raise complex data protection issues, particularly concerning the sharing and verification of personal data. A robust governance framework would be essential to ensure full compliance with the GDPR, especially with regard to data transfers across borders and the allocation of responsibilities between data controllers.

Finally, while an appropriately designed scheme would likely remain shielded from competition law scrutiny as mentioned above, it is necessary to ensure that the agreement's objectives and effects are limited to the employment sphere. Any risk of indirectly restricting competition between companies, or of creating exclusive access barriers to certain markets, would have to be carefully mitigated.

Overall, the creation of a shared social ID card through an autonomous agreement between European social partners presents a promising but complex option. Its success would depend on the strength of sectoral coordination, the precision of the legal design and proactive efforts to engage public authorities to promote the scheme's acceptance and effectiveness across Member States. Considering that this interoperability option does not entail a bottom-up approach and that the shared social ID card would need to coexist or potentially replace existing national cards, this scheme would likely meet a high degree of reticence at national level and lack of political will. In addition, the negotiation process between European sectoral social partners itself may pose a challenge, as it requires time,

internal political approval, and may lead to compromises that affect the ambition of the scheme. A further consideration is the governance of the agreement: its implementation and follow-up would need funding and to be clearly entrusted to a body such as FIEC and EF-BWW, or potentially a third-party entity (for instance a paritarian body).

2.4 INTEGRATION WITH EXISTING OR UPCOMING EU TOOLS

While some of the options described in the previous sections of this report identify possible solutions to the interoperability issue relying on the creation of 'new' data spaces, or agreements, which would need to be set up for the purpose of making social ID cards interoperable, it is also relevant to look at some of the possibilities offered by already existing (or upcoming) tools at EU level.

One crucial aspect to be noted in relation to these options is that they do not necessarily constitute an alternative to the other options presented in this Report. Instead, these existing or upcoming EU tools could be integrated and developed together with some of the other options for interoperability described in here, where appropriate. Hence, the use of these tools should not be considered as mutually exclusive to other options.

The following sections will take into consideration the main tools, systems and frameworks currently in place or developing which could potentially be used for the aim of this study, highlighting the opportunities they might represent and exploring the possible limitations that could arise from their use.

2.4.1 Social ID cards potential integration within the EU Digital Wallet framework

One of the main tools implemented at EU level, which could potentially be used to ensure interoperability of data between already existing schemes of social ID cards, is the European Digital Identity (EUDI) Wallet set up within the European Digital Identity Framework.

The European Digital Identity Framework is based on Regulation (EU) 2024/1183 of 11 April 2024 amending Regulation (EU) No 910/2014 as regards establishing the European Digital Identity Framework (the eIDAS 2 Regulation)⁵³. The latter built on the previous

⁵³ Regulation 2024/1183 of the European Parliament and of the Council of 11 April 2024 amending Regulation No 910/2014 as regards establishing the European Digital Identity Framework [2024] OJ L2024/1183, available at: <https://eur-lex.europa.eu/eli/reg/2024/1183/oj> (last accessed 2 May 2025).

Regulation (EU) No 910/2014 (the eIDAS Regulation).⁵⁴ Amongst the objectives of the eIDAS 2 Regulation is the development of the Union-wide European Digital Identity Framework. This should allow EU citizens and residents to access public and private online and offline services throughout the Union, through a digital identity that is under their sole control. Such framework aims at reducing digital barriers between Member States and empower EU citizens and residents to enjoy the benefits of digitalisation, while increasing transparency and the protection of citizens' rights.

In 2014, the eIDAS Regulation first established a system for electronic identification and trust services, with the aim of making electronic transactions secure and interoperable across EU Member States. The eIDAS Regulation has set standards for electronic signatures, seals, time stamps and other trust services, facilitating cross-border digital interactions. Most importantly, it established a principle of mutual recognition for electronic identification documents (e-IDs)s between different EU Member States (provided they meet the specified regulatory criteria and have been duly notified to the Commission), thus making e-ID schemes interoperable amongst EU Member States. Accordingly, any Member State must recognise the e-IDs of citizens belonging to other Member States as a valid means of identification for the access to any service provided by a public sector body online.⁵⁵ In practice, this has therefore already set up an interoperable system of exchange of public documents between Member States.⁵⁶ However, such system is limited to e-IDs and thus, only applies to personal identification documents issued by public authorities.

In 2024, the eIDAS 2 Regulation (amending the previous eIDAS Regulation) introduced the EUDI Wallet, with the aim of allowing users to 'securely store, manage and validate personal identification data and electronic attestations of attributes for the purpose of providing them to relying parties and other users of EUDI Wallets and to sign by means of qualified electronic signatures or to seal by means of qualified electronic

seals'.⁵⁷ The Wallet built on the framework set up by the original eIDAS Regulation, further expanding the scope of mutual recognition and electronic identification. In fact, the EUDI Wallet is meant to function as a form of electronic identification for both public and private services.⁵⁸ Beyond personal identification, the Wallet is meant to enable the user to store and share (qualified) electronic attestations of their attributes (e.g., driver's license, European Health Insurance Card, education certificates, organisational digital identities).⁵⁹ The EUDI Wallet also allows to support both individuals and businesses in various applications and situations (it can support different uses, such as accessing e-government services, banking, healthcare services) without being limited to a single use case.⁶⁰ This multi-purpose functionality makes it one of the most interesting EU tools to be considered for the purpose of making social ID cards interoperable. In particular, the design of the EUDI Wallet could support both public or private credentials, issued by qualified trusted businesses or organisations.

In fact, the eIDAS framework has set in place a system to allow interoperability between a number of trust services. **Trust services** are defined by the eIDAS Regulation as electronic services normally provided for remuneration and used for a variety of aims. Amongst these, the issuing or validation of certificates for electronic signatures, seals, certificates for website authentication or certificates for the provision of other trust services; the creation, validation or preservation of electronic signatures or electronic seals; or in general the issuing and validation of electronic attestations of attributes.⁶¹

The eIDAS Regulation distinguishes between qualified and non-qualified trust services. **Qualified trust services** are so when they are considered meeting all the applicable requirements laid down in the eIDAS Regulation.⁶² These are meant to function across border, holding the same legal status as their paper-equivalents. According to the eIDAS Regulation, they have to be audited at their own expense at least every 24

54 Consolidated version: Regulation No 910/2014 of the of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC [2014] OJ L257/73, available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02014R0910-20241018> (last accessed 2 May 2025).

55 Ibid, article 6.

56 In that sense, technical and operational requirements for the interoperability framework have been laid down in the Commission Implementing Regulation (EU) 2015/1501 of 8 September 2015 on the interoperability framework pursuant to Article 12(8) of Regulation (EU) No 910/2014 of the European Parliament and of the Council on electronic identification and trust services for electronic transactions in the internal market [2015] OJ L235/1, available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32015R1501>.

57 Ibid, article 3(42).

58 Ibid article 5a(4)(a).

59 Ibid; for more information on the initiative, please consult: European Commission, 'EU Digital Identity Wallet Home' (2024) available at: <https://ec.europa.eu/digital-building-blocks/sites/display/EUDIGITALIDENTITYWALLET/EU+Digital+Identity+Wallet+Home>.

60 The EU Digital Identity Wallet: A Beginner's Guide (2025) available at: <https://www.dock.io/post/eu-digital-identity-wallet>.

61 Ibid, article 3.

62 Regulation No 910/2014 (eIDAS Regulation),

months by a conformity assessment body,⁶³ and need to be verified by a supervisory body before starting to provide a qualified trusted service.⁶⁴ Finally, they need to be inscribed in national 'trusted lists' which have to be set up by Member States, which shall include information related to the qualified trust service providers the qualified trust services provided.⁶⁵

While the introduction of the EUDI Wallet by the eIDAS Regulation provides for significant possibilities to be used in the context of social ID cards, there are also several aspects that need to be considered which might hinder the use of the Wallet. Once again, most of the possible limitations to this integration stem from the significant differences still existing between current social ID cards' schemes. The fact that some social ID cards are managed and issued by social partners, while others by public authorities and the differences in scope and type of data included in the cards are all aspects which need to be taken into consideration and addressed when analysing this option (or its integration with other options analysed in this report). In particular, the main aspects to be taken into consideration are outlined below.

First, in order for social ID cards to be recognised amongst different EU Member States through the Wallet, the data on the cards should at least be ensured at the **same level of trust**. As mentioned above, the EUDI Wallet foresees different levels of trust for the electronic attestations of attributes which can be uploaded on the Wallet. Attestation of attributes can be provided by non-qualified trusted service providers, by qualified trusted service providers and by public sector bodies responsible for an authentic source.⁶⁶ In order to be automatically recognised by all other Member States as a qualified electronic attestation of attributes, a social ID card should be recognised as a qualified electronic attestation of attributes in another Member State.⁶⁷ Similarly, the eIDAS Regulation establishes that an attestation of attributes issued by or on behalf of a public sector body responsible for an authentic source shall be automatically recognised as such by all the other Member States.⁶⁸ One of these two options could potentially guarantee mutual recognition of the cards across their national borders. How-

ever, as highlighted in Section 3.1.1, not all Member States have social ID cards which are issued by public authorities. The implementation of this option would therefore require some changes in the national social ID card schemes, which would need to be harmonised at national level, in order to ensure interoperability across all Member States. It should also be noted that input stemming from the stakeholder consultation activities carried out during this Study stressed how the process of obtaining a certification through the EUDI Wallet for actors other than public authorities might still require a significant amount of time to be fully implemented.

One last crucial consideration for ensuring not only the practical feasibility of this integration, but also compliance with general EU law is the need to fully uphold the principles of the EU internal market. As already mentioned in this Report, any solution for interoperability should respect some of its most basic principles, with particular attention towards freedom of movement for workers, non-discrimination and the freedom to provide services.⁶⁹ This aspect is stressed by Article 4 of the eIDAS Regulation itself, underlining that there 'shall be no restriction on the provision of trust services in the territory of a Member State by a trust service provider established in another Member State for reasons that fall within the fields covered by this Regulation'. Any integration of social ID cards schemes within the EUDI Wallet framework should therefore ensure to avoid any barrier or discrimination for other economic operators, nor workers (which might not be using the card). In this regard, the fact that not all Member States have in place social ID cards' schemes could in itself constitute an issue for the feasibility of setting up an interoperable framework working only amongst Member States within the EU internal market. Moreover, some categories might also be requiring specific attention on this aspect as, for example, small companies (which depending on the system in place in their Member State, might not be using a card) or self-employed workers. Both these categories, depending on the social ID card scheme in place, might be discriminated by excessively burdensome requirements. In particular, self-employed workers are included under national social ID cards'

⁶³ Ibid, article 20(1).

⁶⁴ Ibid, article 21(1).

⁶⁵ Ibid, article 22(1).

⁶⁶ Electronic attestation of attributes issued by or on behalf of a public sector body responsible for an authentic source is defined by article 3 of the eIDAS Regulation as 'electronic attestation of attributes issued by a public sector body that is responsible for an authentic source or by a public sector body that is designated by the Member State to issue such attestations of attributes on behalf of the public sector bodies responsible for authentic sources in accordance with Article 45f and with Annex VII'.

⁶⁷ Ibid, article 24a.

⁶⁸ Ibid, article 45b(3).

⁶⁹ Articles 45 and 56 TFEU.

schemes in only some Member States, and because of this, they might be particularly at risk of being excluded from this option.

In conclusion, the EUDI Wallet seems at the moment to be having a significant potential to be used to ensure interoperability amongst social ID cards. Yet, the EUDI Wallet is not fully working yet and several legal aspects would need to be taken into consideration in order to ensure consistency with its framework and practical implementation of the integration, which would most likely require actions to be taken at national level, to ensure that it can work as a way to make cards' schemes interoperable. Especially if the option of including social ID cards not issued by public bodies is considered, it is likely to take much longer before this option is implemented in practice. Potential lack of political will at Member States' level might also hinder potential necessary amendments to national card's schemes (as well as the creation of entirely new schemes). National resistances may also come from social partners, who might not want to lose their control on social ID schemes in favour of the use of an EU tool.

2.4.2 Integration with the Once Only Technical System

Regulation 2018/1724 (Single Digital Gateway Regulation)⁷⁰ has signed a further step towards interoperability of national systems at EU level, by establishing a legal framework for the creation of a European data space. The Single Digital Gateway Regulation thus mandated the creation of a single digital gateway, meant for public administration to share information in a trusted way.⁷¹ This government-to-government data space is known as the 'Once-Only Technical System'.⁷² Namely, together with the establishment of this intergovernmental data space, the Single Digital Gateway Regulation mandates that a series of procedures (listed in Annex II of the Regulation) shall be offered fully online by Member States, so that citizens might access and complete any of those procedures entirely online.⁷³ Amongst these procedures,

which Member States have to make digitally accessible, are included the request for determination of applicable legislation in accordance with Regulation 883/2004 (resulting in the PDA1 document), as well as the application for a European Health Insurance Card (EHIC).⁷⁴

This Regulation sets up a duty of digitalisation of the relation between the citizen and the government, with the aim of implementing a system of automated exchange of evidence based on **'once-only' principle**.⁷⁵ This principle is meant to allow citizens to save time from presenting the same document to different national authorities, creating a direct channel to share such documents amongst different Member States national authorities. Within the OOTS system, EU citizens and businesses should be able, while carrying out an online procedure in one Member State, to explicitly request to automatically and securely retrieve evidence⁷⁶ from a public authority's eGovernment portal in another Member State. This guarantees an interoperability between different Member States' governmental portals which appears also interesting in view of social ID cards.

However, two aspects need to be noted in relation to this system and in comparison, for example, with other systems such as the EUDI Wallet. First, the data space established under the Single Digital Gateway Regulation is uniquely meant for public authorities. In relation to a potential integration with social ID cards, this would once again come back to the differences amongst Member States' social ID cards schemes, especially as only few of the cards are currently managed by public authorities. In order to include the other social ID cards' schemes, the majority of those would need to be somehow changed at national level, which might encounter difficulties.

Also, while the system and the obligations are already in place, Member States are still in the process of concretely connecting their systems. Hence, in comparison to the EUDI Wallet tool, the OOTS seems to present more limits for the implementation of an interoperable social ID cards system.

70 Consolidated text: Regulation (EU) 2018/1724 of the European Parliament and of the Council of 2 October 2018 establishing a single digital gateway to provide access to information, to procedures and to assistance and problem-solving services and amending Regulation (EU) No 1024/2012 [2018] OJ L295/1, available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02018R1724-20250119>.

71 Ibid, article 2(1).

72 <https://interoperable-europe.ec.europa.eu/collection/digital-building-blocks/solution/once-only-technical-system-oots>

73 Ibid, article 6(1).

74 Ibid Annex II; the Portable Document A1 (PDA1) is a document certifying which national social security system covers a posted worker, confirming that the person has no obligations to pay social security contributions in another Member State.

75 Ibid, article 14.

76 As per article 3(5) of the Single Digital Gateway Regulation, "evidence" means any document or data, including text or sound, visual or audiovisual recording, irrespective of the medium used, required by a competent authority to prove facts or compliance with procedural requirements referred to in point (b) of Article 2(2).'

2.4.3 Other potential EU tools and initiatives

Finally, there are other initiatives carried out at EU level in the last years with the goal of enhancing interoperability, which are worth considering for present or future developments of social ID cards schemes.

First, the **Electronic Exchange of Social Security Information (EESSI)** was launched in 2017 by the European Commission.⁷⁷ The system aims at connecting electronically social security institutions across all the 27 EU Member States plus Iceland, Liechtenstein, Norway, Switzerland and the United Kingdom, starting from June 2023. It works as a decentralised IT system helping social security institutions to exchange information across different States. The EESSI is accessible to social security institutions only, to carry out, for example, procedures such as calculating the pension of a person who has been working in different States throughout his or her career. Hence, it is not accessible to other key actors for whom social ID card schemes are often designed, as for example labour inspectors.

Following up on the EESSI, the **European Social Security Passport (ESSPASS)** project is a pilot project building on the European Digital Identity (EUDI) and the Single Digital Gateway frameworks, aiming at fostering electronic information exchange amongst Member State to ensure social security coordination.

While the EUDI Wallet is to be fully enforced in a couple of years from now, the ESSPASS project aims at exploring the possibility of relying on the EUDI Wallet to store social security and labour documents ensuring the portability and therefore exercise of citizens' social security rights across Member States, thereby facilitating verification processes across borders for national authorities.

Diverging from the EESSI system, which is limited to social security institutions, the ESSPASS aims at facilitating interactions between citizens and several types of public authorities and actors which might be involved in labour mobility for social security purposes. These might include actors as labour inspectors, health care providers or citizens themselves, which do not have access to the EESSI system.

A first phase of the project, which terminated in 2022, involved 12 EU Member States and aimed at ensuring the cross-border digital verification and validation of the Portable Document A1 (PDA1), to facilitate citizens mobility and businesses providing services abroad, reducing administrative burdens. After this first phase, the ESSPASS project is currently undergoing its second phase, which explores the possibility of integrating the PDA1 and the European Health Insurance Card within the EU Digital Identity Wallet.

ESSPASS would thus build upon the above-mentioned data exchange portals (Single Digital Gateway and EESSI), combining them into an interoperable tool that allows for real-time verification of documents of various nature. What could be interesting, for the purposes of this Study, is whether its scope could be extended to also include labour information so that it could also cover the scope of social ID cards. Yet, the use of this tool to allow for interoperability would face similar challenges to those linked to the use of the EU Digital Wallet described above (e.g. would work only for social ID cards issued by national authorities, would need to be based on cards whose scope is already harmonised to a minimum to be enable interoperability.).

However, this pilot project is still under development. As already suggested by the Report of the European Parliament on ESSPASS,⁷⁸ social ID cards could become part of this initiative. However, the same Report highlighted that social ID cards may be more difficult to incorporate into ESSPASS compared to the PDA1 or the European Health Insurance Card. Limitations and challenges once again arise from their scope, largely divergent from Member State to Member State, the broad amount of different types of information they contain and their limited scope in terms of applicability (as they would only be applicable to the construction sector). Moreover, a reluctance from both Member States as well as social partners in standardising national practices relating to social ID cards could also constitute a limit.

Yet, ESSPASS is still an ongoing project, and the next steps of the project are yet to be decided by the European Commission following the final outcomes of the pilot projects.⁷⁹ As such, its final outcome, scope and function remain to be decided. It should be noted, as the construction sector is intensely concerned by posting

⁷⁷ EESSI Q4 2024 factsheet, available at: <https://webgate.ec.europa.eu/circabc-ewpp/d/d/workspace/SpacesStore/7c5a28fe-e4d4-48ba-a113-f46a4f9e21a0/download>.

⁷⁸ European Parliament, "The European social security pass (ESSPASS)", 2023, available at: <https://op.europa.eu/en/publication-detail/-/publication/d993db8d-8f2d-11ee-8aa6-01aa75ed71a1/language-en> (last accessed 26 April 2025).

⁷⁹ European Commission 'European Social Security Pass', available at: https://employment-social-affairs.ec.europa.eu/policies-and-activities/moving-working-europe/eu-social-security-coordination/digitalisation-social-security-coordination/european-social-security-pass_en (last accessed 26 April 2025).

of workers, that the information contained in ESSPASS would overlap with those in social ID cards, which might be an element in favour of their inclusion. In any case, this initiative could represent an important stepping stone and source of inspiration in developing a European interoperable system of social ID cards. In particular, the results of the second phase of the project might give important insights on a future integration of social ID cards within the EU Digital Wallet. In November 2024, the European Commission presented a proposal for a regulation amending Regulation (EU) No 1024/2012 on administrative cooperation through the Internal Market Information System, to include within the Regulation an **e-Declaration of posting of workers**.⁸⁰ This proposal entails the establishment of a setup of a 'multilingual public interface connected to the Internal Market Information System', a single digital declaration portal that Member States may opt to use and that would allow companies temporarily sending workers to another Member State to, amongst other things, creating, submitting and managing PDA1 declarations, transmitting a copy to the posted worker and making the submitted information available to the responsible national competent authorities of the host Member State for administrative cooperation.⁸¹ At the moment, the negotiations on the proposal are still ongoing and as stated above, the establishment of this public portal would be voluntary by Member States. The proposal also includes the possibility for competent national authorities to allow national social partners to be provided with the relevant information available in the Internal Market Information System, but only when necessary for checking compliance with posting rules (in those national contexts where social partners have an enforcement role).⁸² One inherent risk of the implementation of this e-Declaration is that it may weaken the ability of national social partners and Member States to determine their own requirements and in doing so, undermine social ID card schemes.

Another initiative carried out by the European Commission, presented in a Communication in early March 2025, refers to the so-called '**Union of skills**'.⁸³ The latter has the primary aim of ensuring that labour skills are adapted to the labour market demands within the EU, focusing on investment, adult and lifelong learning and skills cre-

ation, as well as on the recognition of different types of training, to enable people to work across the EU. Therefore, together with investments in up- and re-skilling of the European workforce, school education and universities, this initiative aims at facilitating the recognition and validation of skills, which includes a focus on ensuring skills portability. This would be enhanced specifically through a **Skills Portability Initiative**, which should help getting recognised skills acquired in case of mobility. To do this, this initiative comprises enhancing the dialogue with social partners to ensure skills portability. In particular, as part of the Skills Portability Initiative, the Commission's Communication foresees exploring potential legislative proposals to address barriers to the mobility of workers, including building on existing tools (hence, potentially also the social ID cards) to ensure understanding, comparability, trust, acceptance of skills and qualifications across Member States.⁸⁴ The promotion of 'common European formats for interoperable digital credentials' is also included in the initiative and could enable a broader cross-border acceptance of skills and qualifications. Clearly, social ID cards could fall under these initiatives, however, the concrete development and future impact of the Skills Portability Initiative is still to be observed and its implementation will not necessarily result in a possible EU tool or new legal framework enabling interoperability amongst different national social ID card schemes.

2.4.4 Conclusions on the added value of these tools

It becomes clear from this section that, in recent years, the EU has developed several schemes and legal frameworks to implement interoperability between different Member States' identification and authentication systems. While some initiatives -such as the EUDI Wallet- may be broader in scope, or further along in their implementation, they demonstrate that experiences of building interoperable solutions have been adding up at EU level. These initiatives could serve as alternatives to the other options to reach interoperability, or they could be integrated into some of the solutions presented in this report.

80 European Commission, Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs, COM(2024) 531 - Proposal for a regulation of the European Parliament and of the Council on a public interface connected to the Internal Market Information System for the declaration of posting of workers and amending Regulation (EU) No 1024/2012 (2024), available at : https://single-market-economy.ec.europa.eu/publications/proposal-public-interface-declaring-posted-workers_en (last accessed 26 April 2025).

81 Ibid, article 1 and 2(1).

82 Ibid, article 5(8).

83 Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions - A Competitiveness Compass for the EU, Brussels, 29.1.2025 COM(2025) 30, available at: https://european-research-area.ec.europa.eu/sites/default/files/documents/2025-01/COM%202025%2030%20-%20A%20Competitiveness%20Compass%20for%20the%20EU%20_%2029-1-2025.pdf.

84 Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions - The Union of Skills, Brussels, 5.3.2025 COM(2025) 90, available at: https://employment-social-affairs.ec.europa.eu/document/download/915b147d-c5af-44bb-9820-c252d872fd31_en

While social ID cards cannot currently be directly integrated into most of these initiatives (since actions or changes at either the EU or national level would be required for such integration) they could still potentially serve as models for a future implementation of an interoperable social ID card scheme. Alternatively, they could be taken into account for an integration of social ID cards in the longer run, after addressing all the potential issues describes in the previous paragraph. Other initiatives, as the Union of Skills, show the interest and potential for future investment that might be mobilised for this aim in the coming years and should be taken into account for the purposes of this Study. While each of them has their own limitations and strengths, they all could potentially be relevant to avoid 're-inventing the wheel'. Relying on frameworks and systems which have already been developed or are being developed at EU level would not only ensure coherence with the overall EU legal frameworks, but also potentially save time and resources.

On the other hand, forcing an integration with these tools – some of which might not have been designed in the first place for the specific aims of social ID cards – might also require resources, significant political will and adaptation which might delay or potentially impede an effective integration of social ID cards within these systems. Moreover, all of these possibilities necessarily would require some form of action either at EU level or at national Member States level, or both, to ensure such integration. They would often still require amendments to already existing laws (national or European) or require changes to already existing national social ID cards schemes across Member States to ensure a broader alignment of such systems. Hence, while reducing some of the risks of depending heavily on political willingness of Member States (by relying on already existing legislation), these options still pose a number of challenges for their full implementation.

2.5 EU LEGISLATION

This option will be assessed in light of the operational tasks identified in Section 1.2, including its potential to support identification, training recognition, social security coordination and enforcement.

2.5.1 Scope of potential new legislation

While the previous Section 4.4 has presented and analysed the possibilities currently existing to integrate social ID cards within existing or developing systems, tools or initiatives implemented at EU level to ensure

interoperability; the present section explores the feasibility of enacting an entirely new piece of legislation to ensure interoperability. Similar to the option presented in Section 4.3, opposing a bottom-up approach, this option would not rely on the existing cards, but rather start anew an (almost entirely) new system.

Such a piece of legislation could take various forms and comprise very diverse type of content depending on many factors (political willingness, technical and practical feasibility), hence, this section will try to briefly present what for and what kind of new legislation might be enacted at EU level, its potential impact and limits.

The main option, when considering the possibility of enacting new EU legislation, would be a directive. The relevant legal basis for a new directive would be Article 153 (2)(b) of the TFEU, establishing the European Parliament and the Council's competence for the adoption of minimum requirements for gradual implementation to be transposed at national Member States level, in order to support and complement the activities of Member States in several fields, including amongst others, the protection of workers' health and safety; working conditions; and social security and social protection of workers. Moreover, the EU Parliament and the Council are also meant, under article 114 (1) TFEU, to adopt measures for the approximation of the provisions with the aim of establishing and ensuring the functioning of the internal market. As per Art 154 (2) TFEU, the European Commission should consult European social partners before submitting proposals in the social policy field.

In view of the above and given the limitations that the significant differences between Member States' social ID card schemes pose for interoperability, one of the options for a new directive could focus on ensuring a higher level of harmonisation of national ID card schemes.

One of the biggest challenges for interoperability is clearly the significant differences amongst Member States, including the fact that some Member States do not have a card. Therefore, it could be helpful to impose some level of harmonisation, including possibly the introduction of a social ID card by all Member States. This could be done, for example, by mandating that each Member State shall ensure the development of a social ID card in its territory, with the main purpose of identifying workers on construction sites. In that case, many decisions regarding the scope, legal source of the card would need to be taken and harmonised before delving into the actual implementation of their interoperability. The card could be included within the EUDI Wallet framework, once ensured that

all national cards meet comparable standards—particularly in terms of data trustworthiness, compliance with internal market principles, and alignment of the information each card contains.

This would likely require the establishment of a minimum set of information to be included in all social ID cards and it would need to be established whether such a directive would mandate the cards to be issued by public authorities, or leave Member States the possibility to mandate their management to other actors (similarly to what the eIDAS Regulation establishes for the EUDI Wallet, which can be mandated or even just recognised by Member States⁸⁵).

Alternatively, a certain degree of harmonisation could also be achieved by means of a directive introducing a more general obligation to ensure that workers on construction sites carry identification. Similar to the system currently in place in Finland, where workers are required to carry visual identification when working on a construction site, but where there is no obligation for it to be a specific social ID card. This 'softer' approach would leave more space and freedom to Member States on the matter and reduce the level of political resistance towards changes in the current system. However, it could also limit the potential of social ID cards and not fully ensure that the ultimate goal of interoperability between social ID cards will be achieved.

Additionally, new EU legislation could mandate the adoption of a more general, cross-sectoral 'labour card', possibly modelled on the European Health Insurance Card, with more specific features distinguishing it from other EU tools and with a precise list of data stored on it.

One aspect that must be taken into account in all cases stems directly from Article 153(2)(b) TFEU, namely that Directives shall avoid imposing administrative, financial and legal constraints in a way which would hold back the creation and development of small and medium-sized undertakings. Any new type of legislation implemented would need to respect the principles of the internal market and avoid putting an excessive burden on small or medium-sized undertakings, which might be disproportionately impacted by a potential requirement to provide for social ID cards.

As clarified in the Sections 4.1 and 4.2 above, coherence would also need to be ensured with other relevant EU legislation, in particular with the GDPR and the principles of the EU internal market.

2.5.2 Conclusions on the feasibility and desired impact of this option

At the current stage of this Study, there are still many limitations that prevent the introduction of new legislation to enable interoperability between social ID cards. In addition, in terms of assessment against the main criteria identified to measure the feasibility of each option developed for the purposes of this study, the option of adopting an entirely new piece legislation at EU level appears at the moment to be the least feasible one.

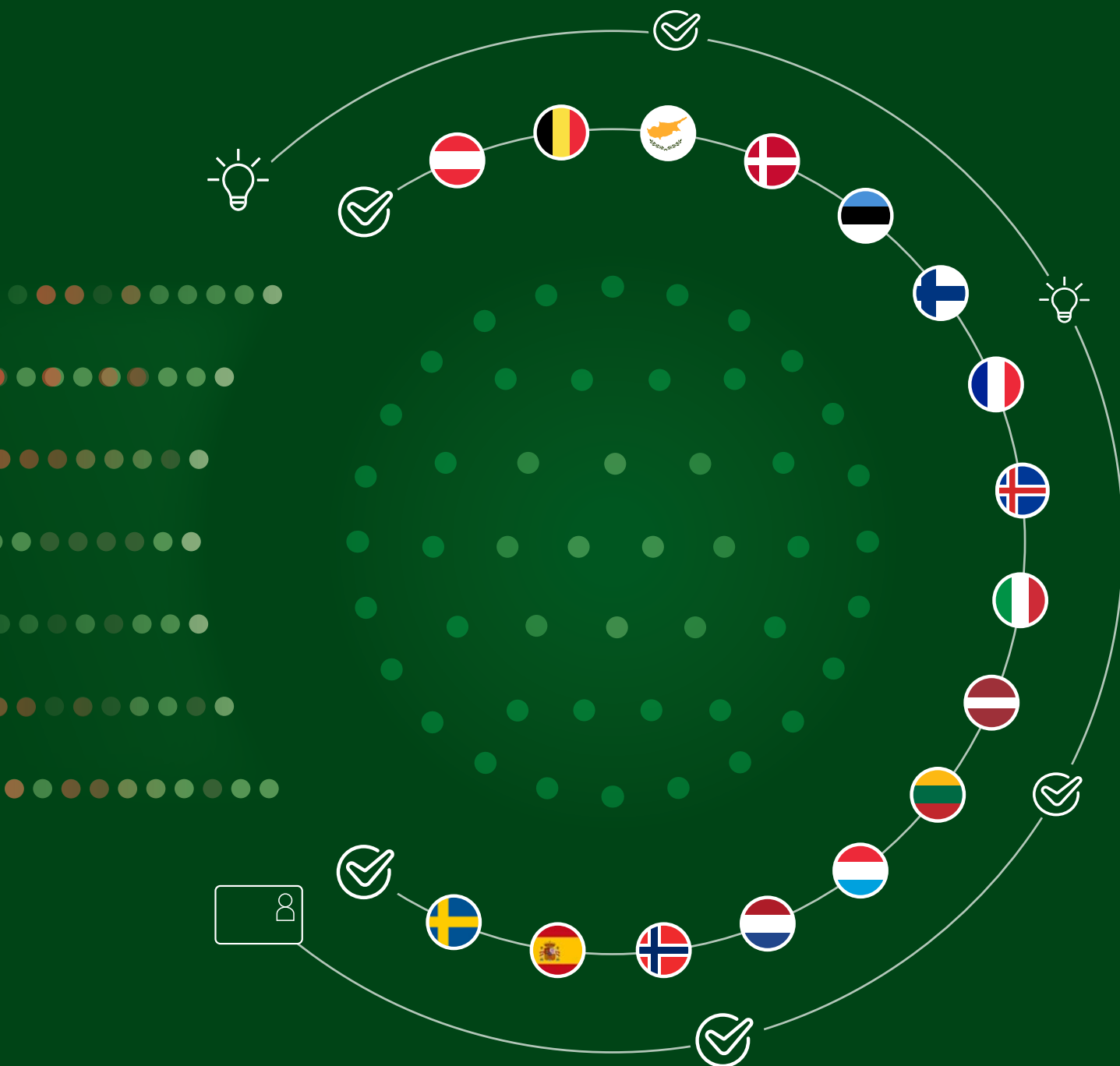
In terms of expected timeframe for implementation, this option would likely require the longest decision-making process. This would need to include the time necessary for the European Commission to draft a proposal, the revision process involving both the European Parliament and the Council, the formal adoption of the text and its final implementation at national Member State level. Additionally, there appears to be a significant lack of political will at Member State level to adopt such a measure. Stakeholder consultations have highlighted some reluctance at national Member States' level to change their own schemes – an aspect that is relevant for almost all other options in this report, but particularly for this one as it could constitute an obstacle to the very beginning of the initiative. Also, in respect of the e-declaration for posting, Member States that already have developed their own system have shown their lack of willingness to change it in favour of a common European framework. Based on stakeholder consultation, there does not seem to be any particular political will from the Commission either. In terms of respect of internal market principles and GDPR, a potential new directive would have to necessarily take into account and fully respect those aspects.

Finally, the option of a directive, mandating that each Member State shall develop a social ID card in their country, could be potentially one of the most comprehensive ones, as all Member States would theoretically be included in the system. Also, this vertical approach would solve some of the issues related to the diversity in scope and characteristics of existing cards. However, the potential scalability of this option would depend on what exactly this new legislation would include. For this reason, this aspect is at the current stage difficult to estimate.

⁸⁵ eIDAS Regulation, article 5a(2).



3 Conclusions on the feasibility



The present final legal report of the SIDE CIC project presents a wide range of options for establishing an interoperable system of social ID cards in the construction sector across the EU Member States. The analysis applies the criteria mentioned in Section 3.1.3 to each of the interoperability options in order to assess the legal feasibility of each of them. Both the EU legal framework and the national legal systems are considered when evaluating the characteristics of each option. This final chapter draws the key conclusions from the preceding assessments, identifying, through comparative legal feasibility analysis, the potential advantages and limitations of each of the possibilities explored.

Bilateral agreements represent the most targeted and least comprehensive option assessed in this report. Their main advantage lies in their simplicity and lower implementation burden when concluded between two countries with similar social ID card schemes. In such cases, legal alignment, particularly in relation to data categories, governance and technical infrastructure, may be more easily achievable than with other options. The bilateral format can serve as a useful pilot model to test interoperability on a small scale and build trust between partners before expanding toward more inclusive frameworks. However, bilateral agreements present some limitations. Legally, their enforceability and implementation depend heavily on the nature of the participating entities. When public authorities are involved, amendments to national legislation may be required to authorise such agreements. Involvement of social partners introduces additional variability, as collective bargaining frameworks differ significantly across Member States and the coverage of collective agreements is often limited. Importantly, bilateral agreements risk creating fragmentation and potentially discriminatory outcomes in the internal market if access to benefits or reduced administrative burdens are not extended to workers or companies from non-participating countries. Therefore, while useful in limited scenarios, bilateral agreements alone are unlikely to deliver an EU-wide interoperable solution unless progressively scaled through multilateral arrangements or one of the other options described in this report.

The development of a **data space** provides one of the most promising models for interoperability. A well-structured data space offers high flexibility, accommodates differences between national schemes and allows for incremental integration, including participation by Member States without existing ID cards. From a legal perspective, data spaces are feasible under current EU law. However, their implementation raises specific challenges, particularly

in ensuring GDPR compliance, defining the appropriate legal basis for data sharing and clarifying the roles of data controllers and processors. The participation of public authorities may require changes to national laws, which adds complexity to the process. Moreover, the initial establishment of a data space requires significant coordination, investments and political commitment from the founding parties. Despite these challenges, the ability to accommodate different actors and roles (namely data providers or recipients only) and to evolve over time suggests that a data space could be a strong solution for a scalable EU-wide interoperability between social ID cards.

The establishment of a **new shared social ID card scheme** through an **autonomous agreement** between European social partners offers another legally feasible option. Such agreements, based on Articles 154 and 155 TFEU, allow for a sector-driven approach that respects the principle of industrial autonomy and could be implemented with flexibility and responsiveness to sector-specific needs. Legally, autonomous agreements may be implemented voluntarily by the social partners or formalised through EU legislation if the parties request its adoption via a Council decision. The main advantage of this model is that it avoids the need to interconnect the fragmented current national schemes and allows for the design of a new card scheme. However, important challenges remain. The lack of public authority endorsement at national level may hinder the card's recognition in inspections and thus the utility of this option. Additionally, the agreement would need to define how the shared card coexists with or replaces existing national cards, an especially sensitive issue in countries where cards are legally mandated. The effectiveness of this model would also depend on the strength of social dialogue structures across participating Member States, which currently varies.


























Several **existing and upcoming EU tools**, such as the EUDI Wallet, the OOTS and regulatory initiatives under the Interoperable Europe Act and the Single Digital Gateway, offer complementary building blocks for interoperability. Amongst these, the EUDI Wallet is particularly noteworthy due to its legal foundation in the eIDAS Regulation and its capacity to host verifiable electronic attestations of worker identity and qualifications. However, the main limitation of relying solely on these tools is that they were not designed specifically for the purpose of managing social ID cards in the construction sector. The EUDI Wallet, for example, depends on the trust level of the issuer and would require that social ID card issuers meet the standards of qualified trust service

providers. In addition, most of these EU tools are limited to public sector usage or are still in developmental stages. As such, their integration into a broader interoperability solution would likely need to occur in combination with other options, such as a data space or shared scheme, rather than serve as a stand-alone solution.

The most comprehensive, but also the most complex, option assessed is the adoption of a **new EU legislative instrument** establishing a harmonised framework for social ID card interoperability. Such top-down approach could ensure full alignment with internal market principles, promote mutual recognition across all Member States and provide a strong legal basis for data sharing. It could also address several issues currently left to national discretion,

such as the definition of minimum data standards, access protocols and mechanisms for enforcement. Yet, the political and institutional cost of this approach is high. Legislative negotiations at EU level can be time-consuming, particularly given the sensitivity of labour market regulation and the strong subsidiarity principle in social policy. Furthermore, Member States may be reluctant to cede national competence in this area without clear evidence of added value and without safeguards preserving national diversity. Thus, while this option would offer the strongest legal clarity and consistency, it may be more suitable as a long-term goal rather than a short-term solution. Moreover, no political will to proceed with this option has been registered during the stakeholder consultations carried out in preparation of this report.

Table 2 Feasibility matrix

Option	Simplicity of decision-making process	Legal Compliance	Political Will	Scalability	Timeline
Bilateral Agreements	 High – Only a limited number of parties could be involved	 Medium – May raise internal market issues	 Medium – Easier between similar countries	 Low – Limited to parties	 Short-term
Data Space	 Medium – Several potential options available for the governance model	 High – Flexible to shape into compliance	 Medium-High – Needs coordination	 Medium – More complex when public authorities are involved and MSs without cards	 Medium-term
Shared Social ID Card	 Medium – Social partners can act autonomously	 Medium – National enforcement and coexistence with national social ID cards	 High – Complex coordination needed	 High – Scalable EU-wide	 Medium/Long-term
EU Digital Tools (e.g. EUDI)	 Low – National and EU-level adaptation	 High – Aligns with EU frameworks	 N/A	 N/A	 Long-term
EU Legislative Initiative	 Low – EU legislative process	 High – Strongest harmonisation	 Very Low – High resistance expected	 High – Would apply EU-wide	 Long-term

 High  Medium  Low

The conclusions on the feasibility of each option are also summarised in table format in the feasibility matrix presented at the end of this section.

The options presented in this Report are not all mutually exclusive but rather complementary, offering distinct advantages and limitations depending on the desired speed, scale and nature of interoperability. The Legal Feasibility Study shows that it is legally possible to constitute an interoperable system for social ID cards in the construction sector, however its feasibility depends largely on elements such as political will, commitment to cooperation between relevant stakeholders, decisions on business models and access to investments.

Overall, the establishment of an interoperable social ID card scheme in the construction sector presents a positive opportunity to enhance the mobility and

protection of workers across EU Member States. By facilitating easier access to job opportunities across all Member States and improving the protection of social rights and working conditions (due to the potential improvement of labour inspections), workers would benefit greatly from such a system. Companies would also benefit from increased legal certainty and reduced administrative burden when engaging in cross-border activities which could increase their competitiveness. Furthermore, labour inspectorates and social security institutions would gain improved access to reliable information for inspections and enforcement. This would lead to better enforcement of EU labour mobility rules and improved coordination between national systems, ultimately benefiting Member States as a whole. The positive impact of an interoperable scheme would thus contribute to a more efficient, fair and cohesive internal market.



