

DIRECTORATE-GENERAL FOR INTERNAL POLICIES

POLICY DEPARTMENT
CITIZENS' RIGHTS AND CONSTITUTIONAL AFFAIRS **C**

Constitutional Affairs

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**THE LEGAL AND POLITICAL
CONTEXT
FOR SETTING UP A
EUROPEAN IDENTITY DOCUMENT**

STUDY FOR THE AFCO COMMITTEE



DIRECTORATE GENERAL FOR INTERNAL POLICIES

**POLICY DEPARTMENT C: CITIZENS' RIGHTS AND
CONSTITUTIONAL AFFAIRS**

CONSTITUTIONAL AFFAIRS

THE LEGAL AND POLITICAL CONTEXT FOR SETTING UP A EUROPEAN IDENTITY DOCUMENT

STUDY

Abstract

This study was commissioned and supervised by the European Parliament's Policy Department for Citizens' Rights and Constitutional Affairs at the request of the AFCO Committee. It assesses the added value of setting up a European identity card. It also analyses the legal and political feasibility of and challenges for setting up an operable European identity card given the current legislative and political context. Moreover, it puts forward recommendations as regards the legal and technical components required for the setting up of an operable European ID card.

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To contact the Policy Department for Citizens' Rights and Constitutional Affairs or to subscribe to its newsletter please write to:

poldep-citizens@europarl.europa.eu

Research Administrator Responsible

Roberta PANIZZA
Policy Department C: Citizens' Rights and Constitutional Affairs
European Parliament
B-1047 Brussels
E-mail: poldep-citizens@europarl.europa.eu

AUTHORS

Katalin ADAMIS-CSÁSZÁR, Milieu Limited
Anna DI PIETRO, Milieu Limited
Emma PSAILA, Milieu Limited
Marilena VERBARI, Milieu Limited

SENIOR EXPERTS

Jos Dumortier, Time.lex, Information&Technology Law
Carlisle George, Middlesex University (School of Science & Technology)
Jo Shaw, University of Edinburgh (Institute for Advanced Studies in the Humanities)

NATIONAL LEGAL EXPERTS

Isabell Büschel (Austria), Nathalie Meurens (Belgium), Aleksandar Dorich (Bulgaria), Illiana Christodoulou-Varotsi (Cyprus), Jiri Kopal (Czech Republic), Julia Litzmann (Germany), Nina-Joye Smith (Denmark), Kristjan Kaldur (Estonia), Athina Kosma (Greece), Roberto Vallina Hoset (Spain), Heli Askola (Finland), Sophie Morel (France), Helga Spadina (Croatia), Katalin Adamis-Császár (Hungary), Patricia Brazil (Ireland), Marilena Verbari (Italy), Linda De Keyser (Latvia), Lyra Jakuleviciene (Lithuania), Nicole Kerschen (Luxembourg), Emma Psaila (Malta), Monica den Boer (Netherlands), Paulina Roicka and Getruda Uscinska (Poland), Goncalo Moreira (Portugal), Mihaela Matei (Romania), Katarina Vucko (Slovenia), Jelena Dzankic (Slovakia), Ida Otken Eriksson (Sweden), Vanessa Leigh (United Kingdom)

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LIST OF ABBREVIATIONS

EC	European Commission
ECI	European Citizens' Initiative
edelivery	Electronic delivery
eID card	Electronic identity card
eIdentification	Electronic identification
EP	European Parliament
eseal	Electronic seal
eSignature	Electronic signature
estamping	Electronic stamping
eTS	Electronic Trust Services
EU	European Union
ICT	Information and communication technologies
ID card	Identity card
Study	Study on the legal and political context for setting up a European Identity Document
TEU	Treaty on European Union
TFEU	Treaty on the Functioning of the European Union

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EXECUTIVE SUMMARY

Every person holding the nationality of a Member State is automatically a European Union (EU) citizen. EU citizens are granted important rights, commonly referred to as **EU citizenship rights**. The European Commission has highlighted that the lack of harmonisation of national identity cards (national ID cards) creates some obstacles for the enjoyment of EU citizenship rights. According to the 2012 European Citizenship Eurobarometer Survey, 18% of respondents would welcome the introduction of a European identity card (European ID card) as an addition to national ID cards.

Against this background the current **Study aims to:**

- assess the added value of setting up a European ID card;
- analyse the legal and political feasibility of and challenges for setting up an operable European ID card given the current legislative and political context;
- put forward recommendations as regards the legal and technical components required for the setting up of an operable European ID card.

This Study mainly focuses on the exercise of **EU political rights** in that it assesses the role a European ID card might play in enhancing the participation of EU citizens in decision-making processes at the EU level.

This Study is based on **desk research**¹ and **stakeholder consultation**². The desk research aimed to **justify the need** (or the lack thereof) **for the introduction of a European ID card**, by assessing the extent to which differences in Member States' legal frameworks linked to national ID cards impede the exercise of EU political rights. It was found that in all Member States there are rules guaranteeing that all EU citizens can exercise their EU political rights. These rules, however, sometimes fail to provide non-nationals (EU citizens residing in a Member State other than their own) and nationals with an equal footing or are overly complicated. The desk research also assessed past and current initiatives linked to ID cards (EU projects and programmes) and concluded that none of them had the aim of enhancing citizens' participation in democratic processes at the EU level. This might mean that there is a gap to address, especially as national ID cards are increasingly given electronic functionalities in a few Member States, allowing for online voting for example. As highlighted by policy documents at both international and European levels e-functionalities might enhance democratic participation. These issues might require action at the EU level. It is thus recommended that the European Parliament while engaging in discussions about the introduction of a European ID card, considers the extent to which the said document could offer a viable solution to the issues identified.

In parallel with the desk research, stakeholders were asked about the **role/added value** that a **European ID card** might play in enhancing EU political rights and the **purpose** of such a card in general. Most stakeholders (27 out of 42) were rather doubtful about the EU added value of a European ID card and called for the collection of more evidence regarding the role such card could play in enhancing EU political rights. It also seemed to be a

¹ The desk research covered the identification and assessment of legislation, policies, academic articles, reports, etc. produced in connection with the following topics: EU citizenship rights, national ID cards, the harmonisation of national ID cards, the setting up of a European ID card, the interoperability of national ID cards and a European ID card and data protection.

² The stakeholder consultation focused on the identification and subsequent interviewing of stakeholders to complete and verify the findings of the desk research on the one hand and to collect stakeholders' views on certain key aspects determining the possible introduction of a European ID card on the other hand.

common argument that such an initiative should be need driven and supported by EU citizens.

The remaining 15 stakeholders, who argued for the EU added value of a European ID card, specified the possible purpose of the said document. Only a minority of respondents (five) could visualise some role for a European ID card in enhancing democratic participation rights at the EU level.

In line with the Study's objectives, research activities also mapped the **legal feasibility** of introducing a European ID card. The principles of conferral, subsidiarity and proportionality determine the boundaries of the EU's right to act. While checking compliance with the first principle, the research revealed that *stricto sensu* there is no legal basis in the Treaties to legislate in connection with the European ID card with the only purpose of enhancing the democratic participation of EU citizens. Legal basis for action at the EU level is provided in connection with the enhancement of free movement rights. It is noted though that free movement rights cannot be seen in isolation from other citizenship rights, thus from EU political rights. Any boundaries preventing citizens from moving around in Europe may impede the full enjoyment of EU political rights, which are granted to all EU citizens regardless of where they reside within the EU. Also any difficulties linked to the exercise of EU political rights might discourage people from moving abroad and thus might have an impact on the exercise of the right to free movement. In connection with the principle of subsidiarity the research revealed that there are issues, hindering the exercise of democratic participation rights by EU citizens which cannot be overcome by the Member States alone, thus action at the EU level seems necessary. In accordance with the principle of proportionality it is recommended that while shaping the European ID card the European Parliament should assess whether or not it is the most appropriate and least onerous tool to resolve the issues identified.

While setting up a European ID card some **legal challenges and issues** might arise in connection with for example data protection and interoperability. **Data protection** is a key issue for all documents containing personal data. Given its perceived aim of enhancing citizens' participation in democratic processes at the EU level, a European ID card, if introduced, will arguably store some personal data. Moreover, the research revealed that data stored on ID cards are typically only the 'tip of the iceberg' and these datasets are often linked to databases. Regulating access to and control over the datasets contained on ID cards and the databases thus plays a key role in protecting data. While considering these aspects the European Parliament would need to take into account existing data protection rules set out in both primary and secondary legislation. **Interoperability**, which to a certain extent is regulated by Regulation (EU) No. 910/2014, is an important aspect to be considered while setting up a European ID card, especially if it would allow for electronic functionalities. The European ID card, if introduced as an addition to national ID cards would need to be made interoperable with those electronic identification schemes of Member States that are affected by the use thereof. Should a European ID card follow the pattern of the European passports, thus allow for the harmonisation of certain features of national ID cards, interoperability of national ID cards will need to be enhanced.

Considering the variety of actors involved in decision-making processes at the EU level and thus the plethora of interests, it is crucial for the adoption of any initiative to be backed by sufficient **political will**. Both the desk research and the stakeholder consultation revealed aspects (such as the lack of tradition of having national ID cards) which could influence the standpoint of Member States. The European Parliament would need to consider these aspects while discussing the introduction of a European ID card.

In addition to the abovementioned political and legal considerations, the Study aimed to describe some **practical elements** to be taken into account while deciding on the introduction of a European ID card:

- Data to be stored and type of content: decision over the amount and type of data to be stored on the ID card is important; the card should be fit for the purpose it was created for, but at the same time should protect the privacy of the data holder. It is also important to check the extent to which the datasets contained on the card rely on or are connected to databases.
- Access to data: a balance must be struck between allowing access to data and protecting the privacy of the users' data.
- Potential security risks: protection against security threats is a key element according to almost all stakeholders.
- Issuance and management of a European identity document: the adoption of clear rules on the issuance and management of a European ID card is necessary. This should extend to a decision on whether the responsibility for issuing a European ID card should be centralised (responsibility given to a single authority) or decentralised (responsibility given to authorities at the Member State level).
- Interplay of a European identity document with national identity documents: European ID card could either replace national ID cards or co-exist with them.
- The use of electronic identification technologies: stakeholders argued for the inclusion of electronic identification technologies in a possible European ID card.

1. INTRODUCTION

1.1. Background and objectives

EU citizenship has been automatically conferred on all EU nationals since the adoption of the Maastricht Treaty³. It brings with it a number of important rights, commonly referred to as EU citizenship rights. The enjoyment of EU citizenship rights has been reinforced over time through the Lisbon Treaty⁴ and the Charter of Fundamental Rights⁵ as well as secondary legislation⁶. The box below lists the main EU citizenship rights.

Box 1: EU citizenship rights

EU citizenship rights

- non-discrimination on the basis of nationality;
- moving and residing freely within the EU;
- voting for and standing as a candidate in European Parliament and municipal elections;
- protection by the diplomatic and consular authorities of any other EU Member State;
- filing a petition to the European Parliament and a complaint to the European Ombudsman;
- contacting and receiving a response from any EU institution in one of the EU's official languages;
- accessing European Parliament, European Commission and Council documents under certain conditions;
- having equal access to the EU civil service;
- having the right to call directly on the European Commission to bring forward an initiative of interest to them (European Citizens' Initiative) within the framework of its powers.

The European Commission constantly monitors the implementation and application by Member States of the Treaty provisions linked to EU citizenship rights, for example, through the EU Citizenship Reports⁷. The latest EU Citizenship Report (2013)⁸, highlighted among the obstacles to the full enjoyment of EU citizenship, the lack of harmonisation of national identity cards (ID cards). Issues arise for example when EU citizens exercise their right to free movement or try to access services abroad. This obstacle could be overcome through various policy and/or legal options, ranging from the minimum to the full harmonisation of national ID cards. The development of a European ID card potentially functioning as an addition to national ID cards, might also be an option to consider.

³ Article 8 of the [Treaty of Maastricht, OJ C 191 of 29.7.1992](#).

⁴ Article 9 of the [Treaty on European Union \(TEU-OJ C 326, 26.10.2012, p. 13-390\)](#) provides a constitutional status to EU citizenship, whereas Articles 10 and 11 strengthen the representation and participation of citizens in European decision-making processes. [The Treaty on the Functioning of the European Union \(TFEU-OJ C 326, 26.10.2012, p. 47-390\)](#) under its Articles 20-24 specifies the content of specific rights linked to EU citizenship.

⁵ The [Charter of Fundamental Rights of the European Union \(OJ C 326, 26.10.2012, p. 391-407\)](#) also recognises a range of civil, political, economic and social rights granted to EU citizens.

⁶ Example of relevant Directive is: [Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States, OJ L 158, 30.4.2004, p. 77-123](#).

⁷ The Citizenship Reports published to date are available through the [European Commission's website](#).

⁸ [Report from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, 'EU citizenship report 2013; EU citizens: your rights, your future', \(2013\)](#).

According to the 2012 European Citizenship Eurobarometer Survey⁹, 18% of respondents highlighted the necessity of creating a European ID card in addition to national ID cards.

The idea of creating a European ID card had already emerged during the early 2000s, but was dropped, due to political, administrative and legal obstacles¹⁰. The project reappeared on the political agenda a few times since, including during the UK Presidency in 2005¹¹. However, it lacked political will, due mainly to different perceptions of Member States about ID cards, their role and importance, as well as concerns over data security. Legal obstacles, including in particular the fact that the issuance of ID cards currently falls under national competences, also contributed to the failure of the initiative.

In April 2015, the European Commission announced its intention to examine different policy options linked to documents held by mobile EU citizens, to facilitate the exercise of EU citizenship rights¹². This mapping coincides with discussions over e-democracy as a means to improve and expand citizens' participation in decision-making at the EU level.

Regarding this point it is noted that EU citizens fail to make use of the full potential of their rights to participate in decision-making processes at the EU level. As an example, the May 2014 EU elections saw the lowest voter turnout on record (42.61%, in comparison to e.g. 42.97% in 2009)¹³. Moreover, the number of complaints registered with the European Ombudsman shows a decreasing trend (2,442 in 2012, 2,420 in 2013 and 2,079 in 2014)¹⁴.

The enhanced use of ICT, such as those used in electronic ID cards (eID cards), could potentially increase democratic participation. These technologies however, are not equally available to all EU citizens. As an example, in 2012, 90% of the Estonian population had eID cards, allowing for a wide-range of e-solutions, including e-voting¹⁵. In some other Member States (e.g. Greece)¹⁶ traditional, laminated ID cards are in use, whereas in others (e.g. Hungary)¹⁷ eID cards are currently being introduced. The introduction of a European ID card, which could potentially allow for electronic functionalities might be beneficial in ensuring equal participation rights for all EU citizens.

Against this background, the 'Study on the legal and political context for setting up a European Identity Document' (Study) aims to:

- assess the added value of the setting up of a European ID card in terms of facilitating and enhancing citizens' participation in decision-making at the EU level;
- analyse the legal and political feasibility of and challenges for setting up an operable European ID card given the current legislative and political context;
- put forward recommendations as regards the legal and technical components required for the setting up of an operable European ID card.

The preliminary findings of this Study were presented at a public hearing within the European Parliament's Committee on Constitutional Affairs on 'E-democracy in the

⁹ [European Commission, 'Standard Eurobarometer 77 – European Citizenship Report', \(2012\).](#)

¹⁰ [Euronews, 'Is an EU identity card on the cards?' \(2012\).](#)

¹¹ [John Lettice 'UK EU presidency aims for Europe-wide biometric ID card' \(2005\).](#)

¹² [European Parliament, 'Parliamentary questions: Answer given by Ms Jourová on behalf of the Commission' \(2015\).](#)

¹³ [European Parliament website, 'Election results' \(2014\).](#)

¹⁴ [European Ombudsman website.](#)

¹⁵ [Estonia.eu, 'e-Estonia'.](#)

¹⁶ Joint Ministerial Decision JMD 3021/19/53 (Government Gazette B' 1440/18.10.2005) 'Type, documentation, competent authorities and issuing procedure of Greek citizens' identity cards', as amended by Joint Ministerial Decision JMD 3021/19/53-κγ (Government Gazette B' 2339/29.08.2014) 'Amendment of Joint Ministerial Decision no.3021/19/50 of 14.10.2005 'Type, documentation, competent authorities and issuing procedure of Greek citizens' identity cards''.

¹⁷ [EGov newsletter 'A new milestone in the Hungarian public administration - the reform of identity cards' \(2015\).](#)

European Union: potential and challenges'¹⁸. The public hearing took place on 14 March 2016.

¹⁸ More information on the hearing is available at: [European Parliament website - Hearing.](#)

2. METHODOLOGY FOR THE STUDY

In light of the Study's objectives research activities have been grouped around five main research areas as described in the box below:

Box 2: Research areas

1. Overview of national identity cards

An assessment focusing on the main differences between Member States' legal frameworks concerning national ID cards and the practical implications of these differences (if any) to citizens' participation in democratic processes at the EU level. Research findings are presented under Section 3.1 (Overview of national identity cards) of this report.

2. Overview of past and current initiatives at the EU level

By analysing the objectives, impacts (or the lack thereof) of selected past and current EU level initiatives leading towards a certain level of harmonisation of national ID cards, an assessment of the extent to which the said initiatives have facilitated citizens' participation in democratic processes at the EU level. Research findings are presented under Section 3.2 (Overview of past and current initiatives) of this report.

3. European added value and purpose of a European identity document

Building on the findings of the research carried out with respect to areas no. 1-2, an assessment focusing on the possible use and EU added value/benefits of a European ID card in facilitating citizens' participation in democratic processes at the EU level. Research findings are presented under Sections 4.1 (European added value of a European identity document) and 4.2 (Purpose of a European identity document).

4. Legal and political feasibility of a European identity document

An assessment focusing on the extent to which the introduction of a common European ID card is legally and/or politically feasible, keeping in mind its perceived role in facilitating citizens' participation in democratic processes at the EU level. The description also extends to the main characteristics of the applicable legal framework that should govern an operable European ID card and highlights some specific legal challenges that could arise in connection with the introduction of a European eID card. Research findings are presented under Section 5.1 (Legal feasibility) and Section 5.2 (Political feasibility).

5. Practical considerations for setting up a European identity document

An assessment mapping possible requirements for the setting up of a European ID card, taking into account that a European ID card is conceived to be a tool for facilitating citizens' participation in democratic processes at the EU level. Among the possible requirements the following ones are assessed: (1) Data to be stored on and provided by a European ID card; (2) Issuance and management of a European ID card; (3) Interplay of a European ID card with national ID cards, (4) The use of electronic identification technologies. Research findings are presented per requirement under Sections 6.1 (Data to be stored on and provided by a European identity document), 6.2 (Issuance and management of a European identity document), 6.3 (Interplay of a European identity document with national identity documents) and 6.4 (The use of electronic identification technologies), respectively.

Two methods have been used for the collection of data in the context of the five research areas: **desk research** and **stakeholder consultation**.

The desk research covered the identification and assessment of legislation, policies, academic articles, reports, etc. produced in connection with the following topics: EU citizenship rights, national ID cards, the harmonisation of national ID cards, the setting up of a European ID card, the interoperability of national ID cards and a European ID card and data protection.

The stakeholder consultation focused on the identification and subsequent interviewing of

main stakeholders to complete and verify the findings of the desk research on the one hand and to collect stakeholders' views on certain key aspects determining the possible introduction of a European ID card on the other hand.

In addition to interviews, stakeholders were also approached via an online platform called Debating Europe¹⁹, allowing for online debates with the involvement of EU citizens and European politicians and experts.

Whilst desk research was used with respect to all research areas, stakeholder consultation was mainly used to collect evidence for research areas 3 (European added value and purpose of a European identity document), 4 (Legal and political feasibility of a European identity document) and 5 (Practical considerations for setting up a European identity document).

EU level desk research was carried out by a core legal research team and national level (EU28) research was carried out by 28 national legal experts. The latter collected factual information on each Member State's legal framework concerning national ID cards in the context of research area 1 and completed a reporting template containing the relevant instructions. Section 3.1 of this Study (Overview of national identity cards) contains the comparative assessment of the findings of the national legal experts' work. The core legal research team interviewed stakeholders on the basis of an interview questionnaire. To ensure the collection of a sufficient level of detail and to properly represent various views, a wide-range of stakeholders (including public authorities at the national level, European Union institutions, civil society associations, academics, other bodies such as think-thanks, organisers of European Citizens' Initiative) with knowledge of various topics (i.e. EU citizenship rights and in particular rights linked to citizens' participation in democratic processes at the EU level, security features and data protection) were targeted by the interview questionnaire. Out of the 187 stakeholders contacted 42 participated in the stakeholder consultation. A table providing the break-down of stakeholders by type and field of expertise is provided in an annex to this Study (Annex I).

The legal research team also attempted to approach stakeholders via the Debating Europe website. To this end a debate question²⁰ was formulated and submitted for consideration to the operators of Debating Europe on 28 January 2016²¹. The debate question was never published, the collection of evidence through this platform was not possible.

¹⁹ [Debating Europe website](#).

²⁰ The debate question read as follows: Any person holding the nationality of an EU Member State is automatically also an EU citizen. EU citizens have a number of important rights, which are commonly referred to as EU citizenship rights. Some of these rights (e.g. the rights to vote and stand as a candidate at European and municipal level elections, the right to participate in European Citizens' Initiatives, the right to file petitions and complaints with the European Parliament and the European Ombudsman, respectively) enable the participation of EU citizens in democratic processes. Existing literature suggests that EU citizens do not make use of the full potential of these rights. As an example, the May 2014 EU elections saw the lowest voter turnout on record (42.61%, in comparison to e.g. 42.97% in 2009)²⁰. Moreover, the number of complaints registered with the European Ombudsman shows a decreasing trend (2,442 in 2012, 2,420 in 2013 and 2,079 in 2014). The enhanced use of information and communication technologies, such as those used in eID cards, could potentially increase democratic participation. These technologies are not equally available for all EU citizens. As an example, in 2012 90% of the Estonian population had eID cards, allowing for a wide-range of e-solutions, including e-voting. In some other Member States (e.g. Greece) traditional, laminated identity cards are in use, whereas in others (e.g. Hungary) eID cards are currently being introduced. The introduction of a European identity card creating an equal footing for all EU citizens might be beneficial in ensuring equal participation rights for all EU citizens. Considering the above, the question is: What would be the added value, if any, of an electronic European identity card in terms of enhancing/facilitating the participation (including e-participation) of EU citizens in the democratic life of the European Union?

²¹ The organisers of the said website are free to select and subsequently publish any debate questions. Once a debate question is published any person can leave a comment on the website. Moreover, the operators of Debating Europe arrange interviews with policy makers and experts from across Europe on the topic touched upon by the debate question. Reactions and comments received from those involved in the debate are published online on the website of Debating Europe. The debate question submitted by the authors of this report was never published and the authors never received a confirmation of receipt of their request.

3. RATIONALE BEHIND THE INTRODUCTION OF A EUROPEAN IDENTITY DOCUMENT

KEY FINDINGS

- EU law guarantees that all EU citizens (both nationals and non-nationals) can exercise their EU political rights;
- However, while implementing the relevant EU rules some Member States fail to provide nationals and non-nationals with an equal footing or are overly complicated;
- Moreover, none of the past and current EU-level initiatives related to national ID cards, have aimed at enhancing citizens' participation in democratic processes at the EU level;
- It is therefore recommended that the European institutions consider the extent to which a European ID card could offer viable solutions to these issues.

By providing some factual details, this Section aims to justify the need (or the lack thereof) for the introduction of a European identity document, taking into account its perceived aim of enhancing citizens' participation in democratic processes at the EU level.

The term 'European identity document' is understood as a document other than a European passport²², a European driving licence²³ or a European health insurance card²⁴, as such documents have already been set up. Considering this, the term rather refers to an identity card-like document. Therefore, in the text below the term 'European ID card' is being used.

3.1. Overview of national identity cards

This sub-section assesses the main differences between Member States' legal frameworks concerning national ID cards and the implications of these differences (if any) to citizens' participation in democratic processes at the EU level.

Member States' legal frameworks have been assessed on the basis of the following criteria:

- Existence of national ID cards: This criterion aimed to group Member States into two main categories, namely Member States where national ID cards exist and Member States where no such documents are in use (Section 3.1.1);
- Type of national ID cards: This criterion aimed to group Member States into three main categories, covering Member States where traditional/paper format national ID cards are in use, Member States where plastic national ID cards without electronic functionalities exist and Member States where eID cards are in use (Section 3.1.2);
- Mandatory national ID cards: This criterion aimed to group Member States into two main categories, namely Member States where national ID cards are mandatory and

²² As regulated by [Council Regulation \(EC\) No 2252/2004 of 13 December 2004 on standards for security features and biometrics in passports and travel documents issued by Member States, OJ L 385, 29.12.2004](#), which Regulation has harmonised some security features including biometric identifiers of national passports.

²³ As regulated by [Directive 2006/126/EC of the European Parliament and of the Council of 20 December 2006 on driving licences \(Recast\) OJ L 403, 30.12.2006, p. 18–60](#).

²⁴ [2003/751/EC: Decision No 189 of 18 June 2003 aimed at introducing a European health insurance card to replace the forms necessary for the application of Council Regulations \(EEC\) No 1408/71 and \(EEC\) No 574/72 as regards access to health care during a temporary stay in a Member State other than the competent State or the State of residence, OJ L 276, 27.10.2003, p. 1–3](#).

Member States where citizens are not obliged to obtain national ID cards (Section 3.1.3);

- Type of issuing authority: This criterion aimed to group Member States into two main categories, namely Member States where one single centralised body is in charge of issuing national ID cards and Member States where competence for issuing national ID cards falls under the remit of decentralised bodies (Section 3.1.4);
- Security features of national ID cards: This criterion aimed to assess whether or not national ID cards are protected by security features (Section 3.1.5);
- Functionalities of ID cards: This criterion aimed to assess the extent to which differences between national ID cards and non-national IDs cards in terms of functionalities affect citizens' participation in democratic processes at the EU level (Section 3.1.6).

The comparative box below provides an overview of Member States' legal frameworks along the first five criteria referred to above.

Box 3: Overview of Member States' legal frameworks in connection with national ID cards

Member State	Existence of national ID card	Types of national ID card			Mandatory national ID card	Type of issuing authority		Security features of national ID card
		Traditional/ Paper	Plastic	Electronic		Centralised	Decentralised	
AT	☑	☒	☑	☒	☒	☒	☑	☑
BE	☑	☒	☒	☑	☑	☒	☑	☑
BG	☑	☒	☑	☒	☑/☒	☑	☒	☑
CZ	☑	☒	☒	☑	☑	☑	☒	☑
CY	☑	☒	☒	☑	☑	☑	☒	☑
DE	☑	☒	☒	☑	☑	☒	☑	☑
DK	☒							
EE	☑	☒	☒	☑	☑	☑	☒	☑
EL	☑	☑	☒	☒	☑	☑	☒	☑
ES	☑	☒	☒	☑	☑	☑	☒	☑
FI	☑	☒	☒	☑	☒	☑	☒	☑
FR	☑	☒	☑	☒	☒	☒	☑	☑
HR	☑	☒	☒	☑	☑	☑	☒	☑
HU	☑	☒	☑	☑	☒	☑	☒	☑
IE	☒							
IT	☑	☑	☒	☒	☑	☑	☒	☑
LT	☑	☒	☒	☑	☒	☑	☒	☑
LU	☑	☒	☒	☑	☑/☒	☒	☑	☑
LV	☑	☒	☒	☑	☒	☑	☒	☑
MT	☑	☒	☒	☑	☑	☑	☒	☑
NL	☑	☒	☒	☑	☒	☑	☒	☑
PL	☑	☒	☑	☒	☑/☒	☑	☒	☑
PT	☑	☒	☒	☑	☑	☑	☒	☑
RO	☑	☒	☑	☒	☑	☑	☒	☑
SE	☑	☒	☒	☑	☒	☑	☒	☑
SK	☑	☒	☒	☑	☑	☑	☒	☑
SI	☑	☒	☑	☒	☒	☒	☑	☑
UK	☒							

Ticks (☑) and crosses (☒) are used in the table above indicating the existence or non-existence of a feature, respectively. In case of Member States where national ID cards do not exist, only the first column of the table above specifying the lack of national ID cards has been completed. All remaining columns have been left empty.

3.1.1. Existence of national ID cards

Most Member States issue national ID cards to their nationals. Three Member States, namely Denmark, Ireland and the United Kingdom constitute exceptions in this regard.

In Denmark the adoption of a national ID card lacks political and social support. Danish citizens seem to feel that they already have enough cards (i.e. passport, driving licence and health insurance card), allowing for functionalities similar to national ID cards in other Member States. They also seem to be unwilling to have a national ID card, given existing security concerns about the collection and storage of all their personal data on one card²⁵. Whilst some political parties, such as the Danish People's Party, have recently brought up the idea of introducing a national ID card, no legislative initiatives have emerged.

Security and data protection related concerns constitute the main reasons behind the lack of national ID cards in Ireland²⁶. Moreover, in Ireland it is unlikely that a national ID card would be justified in cost-benefit terms, given that existing identity documents, such as passports already provide for functionalities similar to national ID cards in other Member States²⁷. Ireland's Deputy Prime Minister, Joan Burton, recently announced that Ireland was not planning to introduce a national ID card²⁸.

In the United Kingdom, the former Labour Government introduced ID cards as part of the Identity Cards Act 2006. The rolling out of national ID cards started in November 2009. In June 2010 the Liberal Democrat/Conservative coalition Government decided to abolish the ID card scheme and all national ID cards were subsequently invalidated²⁹. The scheme was criticised for being too expensive with an estimated cost of GBP 5 billion (approximately EUR 6.5 billion). It was also seen as ineffective in achieving its planned aim of reducing crime and terrorism. Moreover, it was seen as intrusive, as it collected a large amount of data about individuals without the necessary safeguards for protecting security³⁰. The current Government is not planning to reintroduce identity cards for British citizens³¹.

Based on the above it seems that Member States where national ID cards are not issued do not seem to be concerned about the possible impact of the lack of such identity documents on the exercise of citizens' rights. On the contrary, these Member States seem to argue that other national documents proving identity could serve the same purpose as ID cards. It seems to be a common argument that due to the lack of sufficient data protection safeguards, a single national ID card allowing for all sorts of functionalities and storing a wide-range of information would be unsafe. Concerns over the cost implications of the introduction of a national ID card also seem to be common and have emerged both in Ireland and the United Kingdom. By analogy, these concerns could be considered also with respect to the setting up of a European ID card.

²⁵ Danish national expert's own assessment of the Danish situation and news item on the website of Information.dk '[The Danish People's Party wants new national ID cards \(DF vil have nyt nationalt ID-Kort\)\(2015\)](#)'

²⁶ [The Irish Times, Falvey, D., 'A national ID card by any other name?' \(2015\)](#).

²⁷ [Irish Parliament 'Written Answers. - National Identity Cards' \(1994\)](#).

²⁸ [Irish Parliament 'Debates: Written Answers Nos. 35-59' \(2015\)](#).

²⁹ [Cabinet Office, 'The Coalition: our programme for government' \(2010\)](#).

³⁰ [Cabinet Office, 'The Coalition: our programme for government' \(2010\)](#).

³¹ [House of Lords, 'Identity cards in the UK' \(2016\)](#).

3.1.2. Types of national ID card

Electronic ID cards are in use in 17 Member States. Therefore, in most Member States national ID cards have some electronic functionalities. As explained above no national ID cards are issued in Denmark, Ireland and the United Kingdom.

In seven Member States, plastic national ID cards without electronic chips are issued. Hungary is the only Member State where both eID cards and plastic national ID cards are issued³². This latter type of ID card however, can only be issued to people who are older than 65 years of age.

In two Member States, namely Greece and Italy, traditional national ID cards are in use. The introduction of eID cards in Italy has been in the pipeline since 2001, when some municipalities received the authorisation to issue such ID cards. This system however did not make eID cards mandatory³³. In March 2016 the Government started a new pilot programme focusing on the introduction of mandatory eID cards in some regions. The programme is expected to reach nation-wide implementation by the end of 2018³⁴. In Greece, the issuance of a 'new type' of ID card with some additional security features is foreseen. In December 2015 it was announced that a committee of experts was already examining the upgrade of Greek ID cards to bring them in line with EU standards³⁵. It was noted that in addition to fingerprints, the new IDs would include additional biometric elements on a chip, e.g. iris 'imprint'³⁶.

In some Member States, eID cards have relatively long traditions, whereas in others they have only recently been introduced. Cyprus, Hungary, Malta and Spain introduced eID cards in 2015 and 2016 and seem to have taken different approaches while changing their national ID card systems. In Malta, after a roll out period, as of 31 December 2015 old national ID cards are no longer valid. As of 1 January 2016 only eID cards are issued in Malta³⁷. As stated above, as of 1 January 2016 plastic ID cards are only exceptionally issued in Hungary and the issuance of eID cards has become the main rule in the country. In Hungary, plastic or even paper ID cards issued prior to 1 January 2016 remain valid until their dates of expiration.

Two Member States, namely Italy and Romania are planning to introduce eID cards. As mentioned above, a pilot programme was launched in Italy in March 2016 and eID cards are planned to be introduced nation-wide by the end of 2018³⁸. In Romania, whilst the legislative framework³⁹ has already been developed for the introduction of national eID cards, no eID cards have been issued to date.

There is one additional Member State, namely France where the introduction of eID cards was discussed. These discussions led to the adoption of Article 2 of Law no. 2012-410 of 27 March 2012 on the protection of identity⁴⁰ providing the legal basis for the establishment of

³² Article 29/E(2) of [Act LXVI of 1992 on keeping records on the personal data and address of citizens](#) (as amended by Act CXXX of 2015).

³³ [MyEurope website](#), 'The complicated rise of the electronic identity card in Europe' (2012).

³⁴ Council of Ministers, [Electronic Identity Card](#).

³⁵ [News portal 'ekathimerini'](#), 'Greece working to improve security of identity cards', (2015).

³⁶ [News portal 'CNN Greece'](#), 'The new IDs will cost 10 euros' (2016).

³⁷ [Identity Malta website](#), 'EID cards'.

³⁸ [Council of Ministers](#), 'Electronic Identity Card'.

³⁹ Government Ordinance no. 69/2002 on the legal regime of the electronic identity card, republished, Official Monitor no. 844/2004.

⁴⁰ [Law no. 2012-410 of 27 March 2012 on the Protection of Identity](#).

eID cards. However, the Constitutional Council declared this provision unconstitutional in March 2012⁴¹. The Constitutional Council among others ruled that the law touches upon 'the right to privacy in a way that cannot be considered as proportional to the meant purpose'⁴². Since then, no discussions on the topic have taken place.

Based on the above it seems that the introduction of eID cards has become a trend in Europe, with an increasing number of Member States introducing or opting to introduce eID cards.

These efforts are facilitated by EU level legal and policy developments, which aim at the enhanced use of electronic technologies in the European Union. As an example, Regulation (EU) No. 910/2014 on electronic identification and authentication services⁴³(Regulation (EU) No. 910/2014), which will take full legal effect on 1 July 2016, will probably have an impact on national eID cards. The Regulation introduced the EU-wide mutual recognition of electronic identifications in access to public services and will *inter alia* allow EU citizens to use their Member State of origin's electronic identification documents while accessing public services online. This functionality in some Member States, such as Belgium or Estonia is solely attached to eID cards. Regulation (EU) No. 910/2014 is aligned with the objectives of the Digital Agenda for Europe⁴⁴, which forms one of the seven pillars of the Europe 2020 Strategy⁴⁵ and thus plays a key role in achieving growth in the European Union. The Digital Agenda for Europe foresees the enhancement of electronic identification technologies in order to boost online transactions in the private and public sectors. Regulation (EU) No. 910/2014, which in some Member States has an impact on eID cards, was adopted to this end.

The development of an electronic identity infrastructure is expensive⁴⁶,. This might explain why some Member States, and in particular those in difficult economic situations, are slow in introducing national eID cards.

These costs however would need to be seen together with the benefits that eID cards might offer. Information on the benefits of eID cards is available in connection with Estonia for example, which is seen as one of 'Europe's digital pioneers'⁴⁷. In Estonia, eID cards make the lives of Estonian citizens easier, by allowing for over 600 e-services. E-taxation, for example, is an e-service that Estonians can make use of and which allows for the filing of tax papers in half an hour⁴⁸. The Estonian system also generates growth by attracting businesses. With an eID card, companies can be established, registered and administered online within a few minutes.

Acknowledging the economic potential of eID cards and with the aim of boosting the country's (digital) economy, Estonia has recently introduced the concept of 'e-residence'⁴⁹.

⁴¹ [Constitutional Council 'Decision n° 2012-652 DC 22 March 2012'](#).

⁴² [Constitutional Council 'Decision n° 2012-652 DC 22 March 2012'](#).

⁴³ [Regulation \(EU\) No 910/2014 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, OJ L 257, 28.8.2014, p. 73–114.](#)

⁴⁴ [Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, 'A Digital Agenda for Europe', COM/2010/0245 final, \(2010\).](#)

⁴⁵ [EUROPE 2020 A strategy for smart, sustainable and inclusive growth, COM/2010/2020 final, \(2010\).](#) The Europe 2020 Strategy is Europe's ten-year jobs and growth strategy.

⁴⁶ [European Commission, 'Electronic Identities – a brief introduction'.](#)

⁴⁷ [Deutsche Welle 'E-government: Estonia leading the way'.](#)

⁴⁸ [Economist, 'Estonia takes the plunge' \(2014\).](#)

⁴⁹ [Website dedicate to Estonian e-Residency.](#)

The concept creates a transnational digital identity for anyone who wishes to access Estonian digital services. E-residents receive an eID card (also called as e-residence card) allowing for secure digital authentication and the digital signing of documents. According to the latest datasets '[a]s of 14 March 2016, over 9,700 people from 128 countries worldwide have applied for and 9,200 have received the eID. As of today 485 e-residents have established a company and there are over 1,000 companies connected to e-residents (owners, board members).⁵⁰

Cost-implications and potential benefits as well as the use of information and communication technologies (ICT) are aspects that the EU might need to consider, should it decide to introduce a European ID card.

3.1.3. Mandatory ID cards

In 13 Member States it is mandatory for citizens to obtain a national ID card. In three (Bulgaria, Luxembourg and Poland) of the 13 Member States this obligation only extends to citizens who reside in the Member State concerned. In Luxembourg, for example, it is obligatory for Luxembourgish citizens, residing in Luxembourg, to obtain a national ID card. This obligation applies from 15 years of age⁵¹. Luxembourgish citizens who do not reside in Luxembourg and persons under the age of 15 may decide to request a national ID card⁵². In Germany, those who predominantly reside⁵³ in the country are obliged to obtain an ID card⁵⁴.

In some Member States citizens are not obliged to obtain a national ID card, provided that they possess some other identification document. This is the case for example in Hungary, Latvia, Lithuania and Slovenia. In Hungary, citizens living in the territory of the country are not obliged to obtain a national ID card, provided that they have a valid passport or a driving licence card⁵⁵. In Lithuania and Latvia⁵⁶ passports constitute the substitutes of national ID cards. In Slovenia applicable legislation does not specify the type of identity document that could be used as a replacement of national ID cards, instead it refers to any identification document containing a photograph that is issued by state authorities⁵⁷. In the Netherlands it is not an obligation to obtain a national ID card either.

Based on the above, it seems to be a trend that Member States oblige their citizens to obtain a national ID card. In Member States where no mandatory ID cards exist, citizens are typically obliged to obtain alternative identification documents.

3.1.4. Issuing authority

In 19 Member States, national ID cards are issued by a single centralised authority. Central authorities are typically ministries or bodies working under their supervision. In Bulgaria, for example, the Bulgarian Identity Documents Directorate of the Ministry of Interior is in

⁵⁰ [Speaking points on the e-Residency programme launched by the Government of Estonia.](#)

⁵¹ [Law of 19 June 2013 regarding identification of physical persons , Article 15\(1\) first sentence.](#)

⁵² [Law of 19 June 2013 regarding identification of physical persons, Article 15\(1\) second sentence.](#)

⁵³ Pursuant to Article 9 of the German Fiscal Code the term 'predominant stay' refers to the following situation: 'Persons shall have their habitual abode at the place at which they are present under circumstances indicating that their stay at that place or in that area is not merely temporary. An unbroken stay of not less than six months' duration shall be invariably and from the beginning of such stay regarded as a habitual abode in the territory of application of this Code; brief interruptions shall be excepted. The second sentence shall not apply where the stay is undertaken exclusively for visiting, recuperation, curative or similar private purposes and does not last more than one year.'

⁵⁴ [Section 1\(1\), sentence 1 Identity Card Act.](#)

⁵⁵ [Website of the Central Office for Administrative and Electronic Public Services.](#)

⁵⁶ [Article 9 of the Law on Personal Identification Documents, 18 \(4621\), 01.02.2012.](#)

⁵⁷ [Article 2 of 'Identity Card Act'.](#)

charge of issuing national ID cards. In the Czech Republic⁵⁸, Croatia, Lithuania (through its Migration Department), Slovakia⁵⁹ and Spain⁶⁰, the respective national ministries responsible for home affairs are in charge of issuing national ID cards. In Cyprus the Civil Registry and Migration Department of the Ministry of Interior issues national ID cards. In this role the said Department is supported by the Ministry of Interior's district offices and the Citizens Service Centres, which latter bodies serve as one-stop-shops for all sorts of public administration services⁶¹.

In Estonia, Finland, Greece, Hungary, Latvia, Malta, the Netherlands, Portugal, Romania and Sweden, bodies other than national ministries are in charge of issuing national ID cards. These are the Estonian Police and Border Guard Board⁶², the Finnish Police⁶³, the Greek Police⁶⁴, the Hungarian Central Office for Administrative and Electronic Public Services⁶⁵, the Latvian Office of Citizenship and Migration Affairs⁶⁶, the Maltese Identity Management Office⁶⁷, the Dutch National Office for Identity Data⁶⁸, the Institute of Registries and Notaries⁶⁹, the Romanian Directorate for Personal Records and Database Administration⁷⁰ (operating through subordinate offices located in all counties), and the Swedish Police⁷¹, respectively. These bodies often operate under the supervision of different ministries.

In the remaining Member States (except for Denmark, Ireland and the United Kingdom where no national ID cards are issued) there is not a single centralised authority responsible for the issuance of national ID cards. Instead such competence falls under the remit of decentralised bodies.

As an example, in Austria the so-called passport offices (general administrative authorities of the different administrative districts and towns) are in charge of issuing national ID cards⁷². In Belgium⁷³, Italy⁷⁴, Luxembourg⁷⁵ and Poland, municipalities are in charge of issuing national ID cards. In Italy, however, the municipalities/city halls act on behalf of the State. In Germany each municipality has an identity card authority with a remit to issue national ID cards whilst the production of national ID cards is centralised and is the responsibility of the Federal Printing Office⁷⁶. The system in Slovenia is similar to the

⁵⁸ In the Czech Republic the Ministry of Interior is the authority in charge of issuing national ID cards. The ID cards are delivered through a decentralised system. The so-called 'municipal offices with extended activity' are in charge of this activity. In June 2015 there were 228 municipal offices with extended activity in the country.

⁵⁹ As set out in [Law 224/2006 on amendments to the law on ID card and other acts \(consolidated version, 1 July 2015\)](#).

⁶⁰ [Article 1\(1\) of the Royal Decree 1553/2005, 'on issue of national identity and electronic signature certificates'](#).

⁶¹ [Ministry of Interior website](#).

⁶² [Police and Border Guard Board 'ID-card for an adult', \(2016\)](#).

⁶³ [The Finnish Police website](#).

⁶⁴ Ministerial Decision MD 16710/2014 (Government Gazette B' 1147/06.05.2014) 'Access of the Greek Police to the Integrated Central Information System of the National Municipal Catalogue of the Ministry of Interior', which stipulates that the competent authority is the Greek Police and in particular the Security sub-Division or Unit or Police Station of the place of residence of the citizen.

⁶⁵ [Website of the Central Office for Administrative and Electronic Public Services](#).

⁶⁶ [Latvian Office of Citizenship and Migration Affairs](#).

⁶⁷ [Identity Malta website, 'EID Cards'](#).

⁶⁸ [Dutch National Office for Identity Data website](#).

⁶⁹ [Portuguese Citizen Card is the Institute of Registries and Notaries website](#).

⁷⁰ [Romanian Directorate for Personal Records and Database Administration](#).

⁷¹ [1 § Ordinance on national ID cards](#) and [cf. 2 § Passport Act](#).

⁷² [HELP-Service for Foreign Citizens](#).

⁷³ Article 6 of the [Act of 19 July 1991 on the population registries, identity cards, foreigners cards and residence documents](#).

⁷⁴ Council of Ministries, [Electronic Identity Card](#).

⁷⁵ [Law of 19 June 2013 regarding identification of physical persons, Article 12\(1\) second sentence](#).

⁷⁶ [Section 8\(1\) Identity Card Act](#).

German one in that in practice it is considered as a decentralised system with municipalities being in charge of issuing national ID cards⁷⁷. The central level body, which is in fact a company, is only responsible for producing national ID cards. In France, the prefects (i.e. state representative of a region or department) or sub-prefects (i.e. state representative of an arrondissement or sub-division of a department) are the issuing authorities. In Paris, the applications are filed with the Prefect of the Police who issues and delivers the ID cards⁷⁸.

The national differences highlighted above would need to be considered should a European ID card be adopted.

3.1.5. Security features of national ID cards

In all Member States where national ID cards exist – thus in all Member States except for Denmark, Ireland and the United Kingdom – some security features are in use to protect the national ID cards. This Study does not list all security features as these details are often very technical and do not add to the assessment.

In general terms, it is noteworthy that security features often vary depending on the date of issuance of the identity card and the side thereof. This latter characteristic implies that security features used on the recto and verso sides of national ID cards often differ.

It seems to be the case that traditional/paper based national ID cards are less protected by security features than other types of national ID cards. Such a remark could also be made when comparing plastic and eID cards. The latter seems to have more sophisticated security features. This implies that from the citizens' perspective eIDs might be more beneficial. At the same time eID cards often store more data than plastic ID cards or are linked to various databases, thus a possible security breach could potentially be more harmful in the case of eID cards⁷⁹.

The protection of security is a particularly important aspect to be considered should the EU seek to introduce an eID card.

The Estonian example is noteworthy in this regard. In Estonia, a country with one of Europe's most advanced eID card systems, data security issues were given paramount consideration while developing the eID card. Electronic ID cards in the country are protected by a 2048-bit public key encryption and users are consistently asked to enter multiple codes while accessing the various e-services. To date no major data information leaks have occurred in the country⁸⁰.

3.1.6. Functionalities of ID cards

This sub-section highlights some differences between national ID cards in terms of functionalities. To the extent possible, it also assesses the effect(s) of these differences on citizens' participation in democratic processes at the EU level.

The functionalities assessed can be grouped into two main categories:

⁷⁷ The Slovenian system is often referred to as a centralised system.

⁷⁸ [Decree no. 55-1397 of 22 October 1955 'Establishing the National Identity Card'](#).

⁷⁹ Information on the security level of electronic identity documents is available at: [European Commission 'Report on identity theft/fraud - Fraud Prevention Expert Group', \(2007\)](#), page 12.

⁸⁰ [R. Proskauer, 'e-IDs: the future of secure digital identification?'](#).

- General functionalities which are typically tied to national ID cards, which are proof of identity, proof of age, access to public services, access to private services, travel document, means of exercising voting rights in national/parliamentary elections;
- Additional functionalities linked to citizens' participation in democratic processes at EU level, which are functionalities linked to the exercise of voting rights in municipal and European Parliament elections, and to the initiation and signing up to a European Citizens' Initiative.

This Study describes the situation in 25 Member States, thus not covering Member States where national ID cards are not in use (i.e. Denmark, Ireland and the United Kingdom).

3.1.7. General functionalities which are typically tied to national ID cards

General functionalities – Proof of identity

In all Member States, whilst national ID cards are the main means of proving citizens' identity, they are not the only means of doing so. Passports and/or driving licences are typical alternative means for personal identification.

It is noted though that there might be situations where the exercise of certain rights by nationals in their home Member States is tied to the use of national ID cards as proofs of identity. This is typically the case while accessing some e-government or e-public administration services. In Belgium, Estonia, Germany, Finland, Hungary, Lithuania, Latvia, Malta, Portugal, and Slovakia, e-government or e-public administration services can only be accessed by those holding a valid national eID card. This is due to the fact that in these Member States electronic identification and authentication functionalities (e.g. e-signature, e-stamping, etc.) are only attached to national eID cards. In Croatia, access to e-government and e-health services is reserved for Croatian nationals, as such services can only be accessed by those having a personal identification number. This number is only assigned to Croatian nationals and is found on personal documents, such as identity cards or passports⁸¹.

In two Member States (Belgium and Estonia) while exercising voting rights in general/parliamentary elections, citizens can only prove their identity by means of their valid national ID cards. In Belgium, applicable legislation requires that a national ID card is presented together with a voting convocation at the voting station. Moreover, e-voting is only possible for those having a national eID card⁸². In Estonia, e-voting is also tied to the possession of a valid national eID card, which functions as a smart card, allowing for the electronic identification and secure remote authentication of the voter and for providing a digital electronic signature⁸³.

Nationals of other Member States can typically use their own national ID cards as proof of identity in the host Member State. Often this functionality is not tied exclusively to national ID cards and the identity of other Member States' citizens could also be proved by other identity documents.

However, exceptions to this seem to exist in Estonia, Finland and Sweden where nationals of other Member States cannot use their own national ID cards to prove their identity while

⁸¹ [OECD, 'Croatia – Information on Personal Identification Number \(OIB\)'.](#)

⁸² Articles 142 and 161 of the Electoral Code, Articles 36 and 59 of the Brussels Municipal Electoral Code, Article L4143-20 of the [Walloon Code of Local Democracy and Decentralisation](#) and Article 135 of the [Flemish Decree of 8 July 2011 on the organisation of local and provincial election](#).

⁸³ [The National Electoral Commission 'Internet Voting in Estonia'.](#)

accessing certain services. In practice many private and public entities in Sweden may be reluctant to accept other forms of proof of identity than those issued by a Swedish authority, such as the Swedish Tax Authority. The said authority issues specific identity documents for non-Swedish nationals who legally reside in Sweden. While filing an application for this specific document, citizens of other Member States who only possess their Member State of origin's national ID card might face difficulties. As indicated on the website of the Swedish Tax Authority⁸⁴, it will not accept national ID cards issued by Member States other than Sweden as a proof of identity, as these are not subject to Regulation (EC) No 2252/2004 setting out standards for security features and biometrics in connection with passports⁸⁵. To that effect it only accepts EU passports from non-Swedish nationals. In the absence of this document, the Swedish Tax Authority will refuse the issuance of the abovementioned specific identity document to non-nationals.

In Finland, private service providers, such as banks, often refuse national ID cards issued by other Member States as proof of identity. Due to the strict rules applicable to money laundering, some banks are cautious about foreign identity documents and only accept Finnish ID documents⁸⁶.

As explained above, in principle, non-nationals in Estonia cannot access e-government or e-public administration services with their Member State of origin's ID card. This is due to the fact that only those having an ID code can access online public services in Estonia. In the case of Estonians, the ID code is provided on the national eID card. Non-nationals are also provided with an ID code upon registration with the Estonian authorities. Non-nationals' own national ID cards do not contain this code, thus cannot be used while accessing public services online. The following situation constitutes an exception under this rule: Estonia has signed agreements with Finland, Latvia and Lithuania⁸⁷, allowing the citizens of these Member States to use their own national ID cards electronically in the Estonian e-services framework for example while signing documents electronically. This implies that functionalities of other Member States' national eID cards may vary in Estonia, depending on the Member State concerned.

General functionalities – Proof of age

In all Member States, national ID cards are used as proof of age, provided that they specify the date of birth of the card holder. Documents other than national ID cards, such as passports, often contain the same information and could be used for the same purpose. Exceptionally, national legislation may exclusively require the use of national ID cards as proof of age. This is the case in Bulgaria for example, where in procedures before notaries, age must be proved through national ID cards⁸⁸.

General functionalities – Travel document

In all Member States national ID cards are accepted as travel documents within the Schengen Area. Member States may conclude international agreements with other Member States or third countries allowing for the use of national ID cards as travel documents.

⁸⁴ Swedish Tax Authority, 'Acceptable identification documents when applying for ID cards'.

⁸⁵ [Council Regulation \(EC\) No 2252/2004 of 13 December 2004 on standards for security features and biometrics in passports and travel documents issued by Member States, OJ L 385, 29.12.2004.](#)

⁸⁶ [Yleisradio \(news website\) 'Opening a bank account can still be hard for foreigners', \(2014\).](#) The minority ombudsman has repeatedly drawn attention to these problems, which nonetheless appear to persist.

⁸⁷ More information is available at the website of ID.ee under the following entries: '[Support for Lithuanian Mobile-ID and Finnish, Latvian, Lithuanian ID-card in DigiDoc3 client](#)' and '[Estonian and Finnish Prime Ministers signed the ICT Memorandum of Understanding digitally](#)'.

⁸⁸ '[Civil Procedure Code](#)', State Gazette No. 59 dated 20 July 2007, Article 578, paragraph 5, 'Law on Bulgarian Personal Documents', Article 26.

In Romania, for example, due to some bilateral agreements concluded between Romania and some other countries, Romanian national ID cards can be used instead of passports for travelling purposes to Albania, Andorra, Bosnia and Herzegovina, Moldova, Serbia, Montenegro and the Vatican City⁸⁹. These sorts of agreements could also be concluded between two or more Member States of the EU, where one is part of the Schengen Area and the other/s is/are not. One such example is a bilateral agreement between Hungary and Croatia⁹⁰.

General functionalities – Access to private and public services

As a general rule, access to private and public services is not tied to the possession of a national ID card. However, while accessing these services, proof of identity might be requested. National ID cards, as explained above (General functionalities – Proof of identity) are one of the means to prove identity.

It is noted though that in some Member States certain functionalities, which are essential for accessing public and private services, especially when these are accessible online, are typically attached to national ID cards. These functionalities are those linked to electronic identification and authentication (e.g. e-signatures, e-stamps, etc.). Member States where such issues might arise are referred to above under the entry 'General functionalities – Proof of identity'.

General functionalities – Exercise of voting rights in national/parliamentary elections

In all Member States the right to vote in national/parliamentary elections is attached to citizenship, thereby allowing citizens of voting age, who have not lost their voting rights, to vote and stand as candidates in national/parliamentary elections. This implies that citizens of other Member States are not entitled to vote in the national/parliamentary elections of other Member States where they legally reside.

Although the research carried out for this Study did not look into the causes for withdrawal of voting rights; some national legal experts referred to two main reasons: the first one being the imposition of sanctions against certain offenders leading to the withdrawal of certain political rights, and a second being the disenfranchisement of citizens⁹¹ exercising their right to move to a different Member State.

As a general rule, national ID cards have one main link with the exercise of voting rights, namely that citizens might be asked to present them as a proof of identity at the voting station. In certain Member States, and in particular those where national eID cards are used, voting rights are in fact typically tied to national ID cards as proof of identity, especially for e-voting purposes.

National laws, however often allow for the use of identity documents other than ID cards. These alternative means are typically passports, driving licences or other documents containing the photograph of the card holder. This is not the case in all Member States. For example, in Cyprus, citizens are provided with a so-called voting booklet which is the only identification document accepted for voting. This booklet refers to the national ID card number of the holder of the voting booklet.

⁸⁹ [Website of the Ministry of Foreign Affairs](#).

⁹⁰ [Website of the Ministry of Foreign Affairs \(currently called as Ministry of Foreign Affairs and Trade\)](#).

⁹¹ This latter issue has been highlighted among others by the European Commission, which noted that disenfranchisement regimes exist in five EU Member States: Cyprus, Denmark, Ireland, Malta and the United Kingdom. More information is available on the [European Commission website dedicated to 'Disenfranchisement: Commission acts to defend voting rights of EU citizens' \(2014\)](#).

In Latvia, a national ID card alone as a proof of identity is not sufficient while exercising voting rights neither in person⁹², nor electronically⁹³. Currently only passports are considered as sufficient to prove one's identity while exercising voting rights as the law requires that a special stamp is placed in the passport as a proof of voting in parliamentary elections. If a person does not hold a valid passport, but only a national ID card, he/she is required to acquire a so-called voters' card, in which the authorities place the stamp. This system results from the fact that in Latvia paper ID cards which could be physically stamped are no longer issued.

Concluding remarks

In most situations both nationals and non-nationals can use their own Member State of origin's national ID card while proving their identity or age and while travelling within the Schengen Area. It seems however that in certain situations non-nationals are subject to rules different from those applying to nationals. Non-national EU citizens might be unable to use their own national ID cards while accessing certain online public and/or private services in the host Member State. This is due to the fact that in some Member States for the time-being only national ID cards issued to nationals have electronic identification functionalities. Non-national EU citizens are often excluded from these services in the host Member State as they lack such documents. This might ultimately hinder the exercise of citizenship rights and in particular the right to free movement. As an example, the European Commission highlighted that 'European citizens cannot fully participate in the society without a bank account'⁹⁴. Any factor (including the requirement of using exclusively documents issued by the host Member State) making it more burdensome for non-national EU citizens to open a bank account or make transactions in a different Member State, may prevent citizens from moving around in Europe. Although these differences seem to affect the right of EU citizens to free movement, it can be argued that ultimately these limitations might also have an impact on the exercise of democratic participation rights at the EU level. EU citizens who are facing obstacles while moving around in Europe and/or residing in a different Member State, could be prevented from exercising fully their political participation rights, which in principle could be made use of anywhere in Europe.

To resolve this issue various mechanisms can be implemented, such as those enhancing the interoperability of the national ID cards of non-national EU citizens with the electronic identification systems of their host Member State. Alternatively, a common European ID card or a European eID card could also be considered, provided that it is legally and politically feasible.

3.1.7.1. Additional functionalities linked to democratic participation rights at the EU level

The rights covered by this sub-section are granted to every EU citizen by the Treaties. The rights to vote and stand as a candidate in municipal and European Parliament elections are set out in Article 22(2) of the Treaty on the Functioning of the European Union (TFEU), whereas the rights to initiate and sign up to a European Citizens' Initiative (ECI) are granted by Article 11(4) of the Treaty on European Union (TEU) and Article 24 of the TFEU. The exercise of these rights is further specified by secondary legislation, namely:

⁹² Passport is currently the only personal ID document that allows a citizen to vote in elections according to [Article 22\(3\) of the Election Law of Saeima, "Latvijas Vēstnesis", 86 \(369\), 06.06.1995. See also LSM news article in English language](#).

⁹³ Electronic voting is not possible yet.

⁹⁴ [European Commission website, 'Bank accounts' \(2016\)](#).

- Directive 93/109/EC as regards certain detailed arrangements for the exercise of the right to stand as a candidate in elections to the European Parliament for citizens of the Union residing in a Member State of which they are not nationals⁹⁵;
- Council Directive 94/80/EC of 19 December 1994 laying down detailed arrangements for the exercise of the right to vote and to stand as a candidate in municipal elections by citizens of the Union residing in a Member State of which they are not nationals⁹⁶;
- Regulation (EU) No 211/2011 of the European Parliament and of the Council of 16 February 2011 on the citizens' initiative⁹⁷.

The rights to vote and stand as a candidate in municipal and European Parliament elections

All EU citizens, including non-national EU citizens, who reside in a Member State other than their own, are entitled to vote in **municipal elections**.

In most Member States prior to the exercise of voting rights both national and non-national EU citizens need to be listed on an electoral roll. Enrolment is either automatic or requires registration.

In case of automatic enrolment⁹⁸, nationals with a permanent address and non-nationals registered as residents are automatically put on the electoral roll. This is the case in Austria⁹⁹, Denmark, Estonia, Finland, Germany, Hungary, Latvia, Lithuania, Malta, the Netherlands, Romania, Slovakia, Slovenia and Sweden. Nationals might be asked to use their own national identification documents while registering their permanent address. Non-nationals might be asked to do the same while registering in the host country. These processes, however, are not tied to national ID cards exclusively and other identification documents could also be used. In Finland, for example, both national ID cards and passports could be used for this purpose¹⁰⁰.

When enrolment into a voting register is not automatic (in Member States other than the ones listed above) a registration process takes place. As part of this registration process a non-national EU citizen might be asked to prove his/her nationality and address in the host country. Whereas the former can be proved by the non-national EU citizen's Member State of origin's national identification document, the latter can only be proved by a document issued by the host Member State. In some Member States, such as Italy, registration on the electoral register is conditioned by proof that one can exercise his/her political rights. Italian nationals can request a certificate from the Italian authorities proving that they are not banned from the exercise of political rights. Non-nationals are obliged to ask for a similar certificate from their Member State of origin¹⁰¹. In Luxembourg, non-national EU

⁹⁵ [Council Directive 93/109/EC of 6 December 1993 laying down detailed arrangements for the exercise of the right to vote and stand as a candidate in elections to the European Parliament for citizens of the Union residing in a Member State of which they are not nationals, OJ L 329, 30.12.1993.](#)

⁹⁶ [Council Directive 94/80/EC of 19 December 1994 laying down detailed arrangements for the exercise of the right to vote and to stand as a candidate in municipal elections by citizens of the Union residing in a Member State of which they are not nationals, OJ L 368, 31.12.1994.](#)

⁹⁷ [Regulation \(EU\) No 211/2011 of the European Parliament and of the Council of 16 February 2011 on the citizens' initiative, OJ L 65, 11.3.2011, p. 1–22.](#)

⁹⁸ A table comparing the enrolment system in 18 Member States is available on the [website of the European Commission dedicated to 'Ad-Hoc Query on foreign resident inscription to municipal/local elections'](#).

⁹⁹ In some provinces the registration is not automatic.

¹⁰⁰ [Elections website](#).

¹⁰¹ Prato City Hall '[Guidelines to local elections](#)' and Article 5 of Legislative Decree n. 197 of 12 April 1996 on the Implementation of Directive 94/80/EC laying down detailed arrangements for the exercise of the right to vote and

citizens must apply to be included on the electoral roll. Their application must be accompanied by various documents, including a valid national identity document; a formal written declaration specifying inter alia the applicant's nationality and address in Luxembourg and proving that he/she can exercise his/her voting rights; and a certificate 'documenting that they have been residents in Luxembourg for at least five of the six years prior to registration'¹⁰². Registration requirements also exist in Belgium, where non-national EU citizens have to submit a voter registration form to the municipality where they legally reside. By signing the form, the non-nationals declare that they meet the eligibility criteria and are therefore legally entitled to vote¹⁰³.

A European Commission report seems to suggest the negative impact of registration related requirements on the participation rate of non-nationals in municipal elections. It seems that where registration is not automatic, only 10% of non-national EU citizens ask to be entered on the electoral rolls in their host Member State¹⁰⁴.

As a matter of fact, while being asked about means for enhancing their political participation, citizens referred to the necessity of abolishing registration related requirements. Around eight out of ten European respondents noted that it would be easier if registration into the electoral roll were automatic, 'as a result of registering as a resident'¹⁰⁵. Approximately seven out of ten respondents noted that the existence of an online process for registration would be helpful. Roughly the same proportion of respondents called for the ability to vote electronically¹⁰⁶.

Regardless of whether or not the enrolment into the electoral roll is automatic, at the voting stations on the day of the voting, some sort of identification document could be used as a proof of identity. This could be among others the voter's Member State of origin's national ID card and/or the card verifying his/her residence. In Estonia, the rules are slightly different as according to Estonian law¹⁰⁷, non-national EU citizens who legally stay in the country are obliged to register for residency purposes and to get an Estonian ID card for foreigners. This Estonian card is the only card accepted while exercising voting rights both in municipal and European Parliament elections. In practice, the election officer overseeing the election process might decide to let a non-national EU citizen vote with his/her Member State of origin's identification document. Belgium also constitutes an exception. Although it is not set out in applicable legislation, in practice both nationals and non-nationals are asked to use their Belgian ID and residence cards, respectively¹⁰⁸. This is the case in particular when the voter would like to use e-voting functionalities, which is only possible by means of a Belgian electronic ID or residence card. In the Czech Republic, the applicable legislation requires all non-nationals to vote with their residence permit card¹⁰⁹.

In some Member States, such as Belgium, Cyprus, Greece and Luxembourg, voting is

to stand as a candidate in municipal elections by citizens of the Union residing in a Member State of which they are not nationals.

¹⁰² D. Scuto, 'EUDO Citizenship Observatory: Access to electoral rights - Luxembourg' (2013), p.6.

¹⁰³ J.-M. Lafleur, 'EUDO Citizenship Observatory - Access to Electoral Rights - Belgium' (2013), pp.8-9.

¹⁰⁴ [Report from the Commission to the European Parliament and the Council on the application of Directive 94/80/EC on the right to vote and to stand as a candidate in municipal elections by citizens of the Union residing in a Member State of which they are not nationals \(COM\(2012\)99 final\), \(2012\)](#), p. 7.

¹⁰⁵ European Commission, 'Flash Eurobarometer 431 Report - Electoral Rights', (2016), p.6.

¹⁰⁶ European Commission, 'Flash Eurobarometer 431 Report - Electoral Rights', (2016), p. 6.

¹⁰⁷ Riigi Teataja, 'The procedure for the holding of voting and ascertaining of voting results and election results'.

¹⁰⁸ This statement is based on the assumption that EU citizens must be registered with the municipality where they wish to vote. When they are registered with a municipality's population register they receive a Belgian eID card. Electronic voting is conditioned by having a Belgian eID card.

¹⁰⁹ Section 33(3) of the Act No. 491/2001 Coll., on the election into municipal councils.

compulsory; thus EU citizens who are included in the electoral roll are legally obliged to exercise their voting rights.

EU citizens also have the right to vote in **European Parliament elections**. In case of non-national EU citizens, this right can be exercised either in the EU citizen's Member State of residence or in his/her home country. Each Member State decides on its own procedures and rules with respect to the voting rights of its own nationals (regardless of whether or not these nationals reside in the country).

The voting rights of EU citizens who are non-nationals, but legally reside in a Member State are regulated by Directive 93/109/EC. In accordance with these rules, the voting rights of non-national residents are conditioned on prior registration in a voting register. In addition to these, the voter should prove his/her nationality (among others by his/her national ID card), address on the territory of the Member State where he/she resides; declare that he/she will exercise his/her voting rights in one Member State only¹¹⁰.

While reflecting on the transposition of Directive 93/109/EC and the results of the 2009 European Parliament elections, the European Commission noted that in some Member States the registration requirements were burdensome. As an example, in Malta, people needed to provide a Maltese ID card, which was issued to Maltese nationals exclusively, while registering on the electoral roll. As a consequence, non-national EU citizens, who did not possess such card, were prevented from exercising their political rights stemming from the Treaties¹¹¹.

Whilst obstacles similar to this do not exist anymore¹¹² a recent survey revealed that registration on the electoral roll is still considered as a major burden by EU citizens. Non-national EU citizens encounter the following difficulties while exercising their voting rights: 'administrative burden for registering on the electoral roll' (51% of respondents), 'insufficient/unclear information on how to vote' (47%), 'insufficient or unclear information received regarding registration on the electoral roll' (43%), 'lack of information about [my] rights' (39%), 'difficulties in accessing the polling station due to disability or reduced mobility' (6%) and 'other' (29%).

The survey also provided a country-specific example while illustrating the difficulties¹¹³. In the Netherlands, a Belgian national would need to file an application for a proof of residence each time he/she would like to register, for example for voting purposes. This involves payment of a fee of EUR 12.50, which for some might constitute a burden¹¹⁴. Member States may also require the voter to provide reference to the place in his/her home Member State where he/she was last entered into the electoral roll (this is the case in e.g. Cyprus¹¹⁵ and Luxembourg¹¹⁶) or to prove that he/she has not been deprived of the right to

¹¹⁰ Article 9(2) of Directive 93/109/EC.

¹¹¹ [European Commission, 'Report from the Commission - Report on the election of Members of the European Parliament \(1976 Act as amended by Decision 2002/772/EC, Euratom\) and on the participation of European Citizens in elections for the European Parliament in the Member State of residence \(Directive 93/109/EC\)', \(2010\), p.8.](#)

¹¹² [Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, 'Preparing for the 2014 European elections: further enhancing their democratic and efficient conduct', COM\(2013\)126 final, \(2013\), p. 8.](#)

¹¹³ [European Commission, 'Flash Eurobarometer 430 - European Union Citizenship', \(2016\), p. 47.](#)

¹¹⁴ [European Commission, 'Flash Eurobarometer 430 - European Union Citizenship', \(2016\), p. 32.](#)

¹¹⁵ [N. Charalambidou, 'EUDO Citizenship Observatory - Access to electoral rights - Cyprus', \(2013\), p. 7.](#)

¹¹⁶ [D. Scuto, 'EUDO Citizenship Observatory - Access to Electoral Rights - Luxembourg', \(2013\), p. 5.](#)

vote in his/her Member State of origin (this is the case in e.g. Belgium¹¹⁷, Cyprus¹¹⁸ and Estonia¹¹⁹). Member States may also require the voter to present a valid identity document. It is however not specified that this identity document should take the form of an ID card. National rules regarding the voting rights of nationals, with permanent address on the territory of the Member State concerned, differ. In most Member States voting rights are not conditioned by prior registration. Cyprus constitutes an exception in this respect given that both nationals and non-nationals are obliged to register themselves prior to exercising their voting rights in European Parliament elections. Nationals can use their national ID card or passport for this purpose. In other Member States, when voting rights are to be exercised elsewhere than the municipality where the citizen has his/her permanent address, registration is required also from national EU citizens. While voting, identity could be proved by means other than national ID cards.

Both nationals and non-nationals can stand as candidates in municipal and European Parliament elections, under the same conditions. National identity cards play a minor role in this process, and could be used as proof of identity only.

The right to initiate and sign up to a European Citizens' Initiative

Regulation (EU) No. 211/2011 sets out binding rules which are directly applicable in all Member States and thus automatically part of the Member States' legal orders. Whilst Member States may adopt implementing measures, they may not deviate from the provisions of Regulation (EU) No. 211/2011. Pursuant to Article 3(1) and (2) of Regulation (EU) No. 211/2011, any EU citizen may initiate an ECI, provided that he/she is of the age to be entitled to vote in European Parliament elections. This is typically 18 years of age, except for in Austria, where the voting age is 16. Those initiating an ECI are obliged to form a citizens' committee consisting of at least seven persons residing in at least seven different Member States. This implies that the right to initiate is linked to the organisers' residence instead of their nationality.

In all Member States the rules applicable to proving residence differ depending on whether or not the EU citizen is a national or a non-national. In case of non-nationals, residence can be proved by a document confirming that the person concerned legally resides on the territory of a different Member State. Pursuant to Directive 2004/38/EC¹²⁰ on the free movement of EU citizens, EU citizens are entitled to reside in a different EU Member State for up to three months without any conditions other than the requirement to hold a valid ID card or passport. In some Member States, such as Belgium¹²¹, Cyprus¹²² or Germany¹²³, EU citizens staying for less than three months might be required to report their presence within a reasonable period of time after arrival. If the length of residence exceeds three months, the citizens should meet certain additional administrative requirements, which typically involve registration. EU citizens who legally reside in another EU Member State for a continuous period of five years are entitled to request a permanent residence status.

¹¹⁷ J-M. Lafleur, 'EUDO Citizenship Observatory - Access to Electoral Rights - Belgium', (2013), p. 6.

¹¹⁸ N. Charalambidou, 'EUDO Citizenship Observatory - Access to electoral rights - Cyprus', (2013), p. 7.

¹¹⁹ M-H. Laatsit, 'EUDO Citizenship Observatory - Access to electoral rights - Estonia', (2013), p.5.

¹²⁰ Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States amending Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC (Text with EEA relevance), OJ L 158, 30.4.2004, p. 77-123.

¹²¹ Your Europe website, 'Reporting presence for short stays (<3 months) - Belgium', (2014).

¹²² Your Europe website, 'Reporting presence for short stays (<3 months) Cyprus', (2014).

¹²³ Your Europe website, 'Reporting presence for short stays (<3 months) - Germany', (2014).

On this basis, in all Member States, some documents issued by the host Member State's authorities serve as proof of residence. Non-national EU citizens cannot prove such status with their own Member State of origin's ID card.

National EU citizens can typically use their own national ID cards to prove their legal residence on the territory of their own Member States. Hungary constitutes an exception in this regard, as Hungarian citizens' residence can be proved by means of their so-called address card, indicating the permanent address of the person concerned. This card is separate from the national ID card.

Regulation (EU) No. 211/2011 also lays down rules for signing up to an ECI. EU citizens have two possibilities while signing up to an initiative: either they can sign up to an ECI as supporters of their Member State of origin, or as supporters of their host Member State. In both cases, however, the supporters need to provide some data while completing the statement of support. The data required varies from Member State to Member State. This is due to the fact that each Member State is *inter alia* responsible for verifying the validity of the signatory's statement, which is only possible with respect to certain data that are managed by the state authorities.

Member States may or may not ask for some personal identification number of the signatory in order to verify the data provided in the ECI and in particular to verify the identity of the signatory. Member States that do not ask for such data include Belgium, Denmark, Germany, Estonia, Finland, Ireland, Luxembourg, the Netherlands, Slovakia, and the United Kingdom. Any EU citizen, including both nationals and non-nationals, who legally reside in Ireland and the United Kingdom can sign up to an ECI for these Member States. In Estonia, Slovakia, the Netherlands and Finland both residents and citizens can sign up to an ECI. In Belgium, Denmark, Germany and Luxembourg also residents and citizens can sign up to an ECI. Own nationals of Belgium, Denmark, Germany and Luxembourg living abroad, however can only sign up to an ECI as supporters of these Member States, if they have previously informed their Member State of origin's authorities about their place of residence. It is up to the national authorities to verify the statements of support on the basis of appropriate checks. Regulation (EU) No. 211/2011 does not specify what these appropriate checks are. The national legal experts contributing to this Study were not asked to check the verification processes in each Member State. However, they did note that in the Member States concerned¹²⁴, residence cannot be proved by the non-national supporters' own national ID card. Residence can be proved by an administrative document issued by the host Member State's competent authorities. National EU citizen supporters can typically use their national identity documents, thus including their ID cards to prove their status in their home country.

If an EU citizen would like to sign up to an ECI as a supporter for Austria, Bulgaria, Cyprus, the Czech Republic, Greece, France, Croatia, Hungary, Italy, Latvia, Lithuania, Malta, Poland, Portugal, Romania, Slovenia, Spain, or Sweden, he/she would be asked to provide a personal identification number as provided in a document issued by one of these Member States that he/she would wish to support. The documents containing the relevant personal identification number are listed per Member State in Part C, Point 2 of Annex III of Regulation (EU) No 211/2011. The documents that are referred to in the said Annex vary from Member State to Member State and are sometimes limited to documents which could

¹²⁴ Belgium, Denmark, Germany, Estonia, Ireland, Luxembourg, the Netherlands, Slovakia, Finland and the United Kingdom.

only be issued to nationals, thereby excluding non-nationals from signing an ECI as a supporter of the host Member State, where they legally reside. For example, only those holding a Czech national identity card or passport can sign up to an ECI as supporters from the Czech Republic. These documents are issued to nationals only. Exceptionally, the Annex instead of specifying a document to be used, refers to the personal identification number of the signatories. These numbers are, as a general rule contained in national ID cards of the Member State to be supported and/or residence cards (in case of non-national EU citizens).

Concluding remarks

In light of the above, it seems that there are rules in place to guarantee that all EU citizens can exercise their rights to vote and stand as a candidate in municipal and European Parliament elections. Some of these rules require both nationals and non-nationals to take administrative actions.

As an example, in some Member States prior to exercising voting rights in municipal elections both nationals and non-nationals have to apply to be entered on the electoral register. This process could arguably become burdensome for non-nationals, who prior to filing this application would need to obtain some administrative documents from the host Member State¹²⁵.

To ensure a better understanding of the implications of these issues, attempts were made to identify literature on the voting behaviour of EU citizens in municipal elections. Literature on the topic, however, is scarce. It is a fact though that despite the increasing number of mobile EU citizens (in 2010 more than 13 million), only a relatively low number of mobile EU citizens exercise their political rights in municipal level elections¹²⁶. Statistical data from Member States where registration into electoral rolls is not automatic show that only 10% of non-national EU citizens ask to be entered on the electoral rolls in their host Member State¹²⁷. This low number could be indicative of the existence of some factors hindering the exercise of political rights. The existence of some administrative burdens is also highlighted by a recent European Commission survey, which revealed that according to a majority of respondents, political participation could be enhanced by abolishing registration related requirements or by making the registration possible electronically¹²⁸. While shaping the discussions on the introduction of a European ID card, decision-makers might consider the role that the European ID card might play in addressing the aforementioned issues and the request of Europe's citizens.

Administrative obstacles also exist in connection with the exercise of voting rights in European Parliament elections. A recent survey revealed that non-national EU citizens encounter administrative difficulties while registering on the electoral roll (51% of respondents said that)¹²⁹.

It seems however that administrative obstacles are only one of the reasons which keep citizens away from the voting polls. According to a recent survey mapping the electoral behaviours of non-voters in connection with the 2014 European Parliament elections,

¹²⁵ [Report from the Commission to the European Parliament and the Council on the application of Directive 94/80/EC on the right to vote and to stand as a candidate in municipal elections by citizens of the Union residing in a Member State of which they are not nationals \(COM\(2012\)99 final\), \(2012\)](#), pp. 13-14.

¹²⁶ Statistical data showing the increasing number of mobile EU citizens are available at: [European Commission, '20 years of the European Single Market', \(2012\)](#), p.25.

¹²⁷ [Report from the Commission to the European Parliament and the Council on the application of Directive 94/80/EC on the right to vote and to stand as a candidate in municipal elections by citizens of the Union residing in a Member State of which they are not nationals \(COM\(2012\)99 final\), \(2012\)](#), p. 7.

¹²⁸ [European Commission, 'Flash Eurobarometer 431 Report - Electoral Rights' \(2016\)](#), p.6.

¹²⁹ [European Commission, 'Flash Eurobarometer 430 - European Union Citizenship', \(2016\)](#), p. 47.

registration and 'voting card related problems' are quoted as a reason for not voting by only 4% of respondents. This relatively small number and the fact that out of 17 possible justifications for not voting, this was ranked as the twelfth most common one, suggest that the issue is rather minor, according to the respondents. The main reasons for not voting are the 'lack of trust and dissatisfaction with politics in general' (23%), 'no interest in politics as such' (19%) and 'vote has no consequences or vote does not change anything' (14%)¹³⁰.

The aforementioned surveys did not look into the extent to which registration is hindered by the differences of national ID cards. Thus on this ground, it cannot be concluded that the introduction of a European ID card would provide a viable solution to the issues identified. These matters and in particular the possible role a European ID card could play in ensuring the automatic registration of EU citizens on national electoral rolls, could be considered while mapping the possible functionalities of a European ID card.

Currently applicable EU rules entitle citizens to exercise their rights to initiate and/or sign up to an ECI. It is noted though that rules applicable to the signing up to an ECI are complicated as they vary from Member State to Member State. Citizens might become confused by these complex rules. As highlighted by the European Ombudsman, some of the existing rules prevent EU citizens residing in a Member State other than their own from signing an ECI as a supporter of their host Member State. This situation occurs in Member States where the personal identification number required for signing an ECI is only set out in documents issued to nationals. The Ombudsman therefore called on the European Commission to make the legislation simpler and introduce 'uniform requirements for all Member States in terms of personal data to be provided when signing a statement of support'¹³¹. The European Commission in a recent report acknowledged the complexity of rules applicable to signing an ECI and noted that 'conditions and personal data required from signatories by different Member States remain an issue of concern, especially in cases where citizens are as a result excluded from the right to support an initiative'¹³². The European Commission report does not go beyond the identification of issues and leaves it up to the European Parliament to respond to them in the form of concrete proposals. As a response, the European Parliament has called on the European Commission to adopt more 'user-friendly and harmonised data collection requirements' by revising Regulation EU (No) 211/2011 in order to guarantee 'citizens the possibility of signing an ECI in their country of residence'¹³³. These revised rules are to be developed. The decision-makers could potentially consider the role that a common European ID card could play in simplifying the existing rules.

3.2. Overview of past and current initiatives at the EU level

This Section describes whether and if so to what extent selected past and current EU level initiatives have aimed to facilitate citizens' participation in democratic processes at the EU level by setting up a European ID card or by harmonising some features of national ID cards. The aim is to contribute to the assessment of whether or not the introduction of a European ID card is necessary.

¹³⁰ [European Parliament, '2014 post-election survey, European elections 2014, Analytical overview', \(2014\).](#)

¹³¹ [Decision of the European Ombudsman closing her own-initiative inquiry OI/9/2013/TN concerning the European Commission.](#)

¹³² [Report from the Commission to the European Parliament and the Council, 'Report on the application of Regulation \(EU\) No 211/2011 on the citizens' initiative', COM\(2015\) 145 final, p. 14.](#)

¹³³ [European Parliament resolution of 28 October 2015 on the European Citizens' Initiative \(2014/2257\(INI\)\). \(2014\).](#)

The desk research carried out highlighted that none of the initiatives analysed had the setting up a European ID card or the full harmonisation of national ID cards as its specific aim.

However, several EU projects have been carried out with the aim of *inter alia* enhancing the use of ICT tools in national identification schemes by, in some cases, ensuring some level of harmonisation. Whilst **none of them has specifically focused on e-democracy and citizens' active participation in the democratic life of the EU**; some touched upon relevant EU citizenship rights. The description below covers some projects, which were identified on the basis of desk research.

One of the first initiatives within this context was the setting up of the **Porvoo Group**¹³⁴ a forum for discussion and exchange of good practice on eID cards. It was initially an initiative of the e-Europe Smart Card Charter¹³⁵, a project launched in 1999 by the European Commission, bringing together experts from government and industry to address issues of interoperability i.e. the capacity with which two programmes (e.g. a client and a server) are able to exchange and interpret their data properly and securely with regard to the deployment of smart cards across Europe¹³⁶. The Group was a pro-active European-level electronic identity interest group, which provided relevant contributions to the public debate about eID card questions¹³⁷. The Group highlighted the need for minimum requirements to be established so that eID cards can be used across national borders¹³⁸.

One of the outcomes of the seventh meeting of the Porvoo Group, held in 2004 was a contribution to the development of the Hague Programme; strengthening freedom, security and justice¹³⁹ in the European Union which *inter alia* aimed to develop minimum security standards for eID cards¹⁴⁰.

Since its establishment, the Porvoo Group has met several times with the last meeting being held in France in 2014 to consider questions related to European electronic identity and safe online services. Themes discussed at this last meeting included electronic identification, trust services for electronic transactions (for example, electronic signatures, time stamps and documents, as well as website verification) and matters connected with the protection of privacy¹⁴¹.

An **e-Europe 2005**¹⁴² **Action Plan** was approved by the Seville European Council in June 2002 with the aim to translate the widespread internet connectivity already promoted by the e-Europe 2002¹⁴³ action plan into increased economic productivity and improved quality of and access to services for all European citizens based on a secure infrastructure available to the largest possible number of people¹⁴⁴.

¹³⁴ This group takes the name from the Finnish town of Porvoo where it was first established.

¹³⁵ IDABC '[Towards interoperable eIDs for European Citizens](#)', (2005).

¹³⁶ IDABC '[Towards interoperable eIDs for European Citizens](#)', (2005).

¹³⁷ IDABC, '[The Porvoo Group: promoting eID interoperability](#)', (2005).

¹³⁸ Thomas Myhr, 'Regulating a European eID, a preliminary study on a regulatory framework for entity authentication and a pan European Electronic ID' for the Porvoo eID Group, (2005).

¹³⁹ Council of the European Union, The Hague Programme; strengthening freedom, security and justice, 2005/C 53/01, OJ C53/1 of 3 March 2005.

¹⁴⁰ [International Porvoo Group](#) convenes in France 22–23 May 2014, Press Release, 21 May 2014.

¹⁴¹ [International Porvoo Group](#) convenes in France 22–23 May 2014, Press Release, 21 May 2014.

¹⁴² Eur-Lex '[e-Europe 2005](#)'.

¹⁴³ Eur-Lex '[e-Europe 2002](#)'.

¹⁴⁴ Eur-Lex '[e-Europe 2005](#)'.

To follow up on the e-Europe 2005 Action Plan, the **MODINIS project**¹⁴⁵ was carried out between 2003 and 2005 with the overarching aim to promote the use of e-Government, e-Business, e-Health and e-learning services. The project had *inter alia* the objectives of setting up the basics for the establishment of a future European level structure for network and information security and to support efforts made by Member States in the framework of e-Europe through conferences and workshops. It involved all Member States, Iceland and Norway. The initiative did not specifically address the setting up of a European ID card nor did it promote the harmonisation of national ID cards; instead it enhanced the use of ICT with regard to various kinds of services for which a national ID card might be used in some Member States.

Similarly, the pilot project called **SEMIRAMIS**¹⁴⁶ was set up to reinforce the provision of e-services. The pilot tested legal requirements for the exchange of sensitive/personal information aggregated from various databases, ID management and the secure transfer of data. It tested two scenarios in this respect, one involving public and private organisations only and a second involving citizens from across Europe¹⁴⁷. Whilst the focus of the pilot project was the provision of (private or public) e-services that as such could be linked to national ID cards, it did not specifically seek to harmonise national ID cards, create a European ID card or promote e-democracy and those political rights that would enhance citizens' democratic participation. However, it cannot be excluded that in some Member States the public e-services provided could be linked to these aspects e.g. voting through an e-Government service (e-voting).

On a similar issue the **STORK** pilot project was carried out between 2008 and 2011 with the aim of establishing an interoperability platform for electronic identification schemes (which category might include also ID cards). Its objective was to allow citizens to establish new e-relations across borders, simply by presenting their national eID card. The rationale behind the initiative was to enable citizens' access to Member States' information systems by using their national eID cards with minimal modification on the information systems themselves. The initiative successfully produced a set of technical specifications for enhancing the interoperability of the participating countries' national eID cards¹⁴⁸. Similarly to SEMIRAMIS, STORK did not aim to harmonise national ID cards or set up a European ID card. Rather, it sought to ensure the operability of national eID cards and thereby facilitate their use across borders. The pilot in fact allowed citizens to securely use e-services across borders to access public government services¹⁵⁰.

STORK 2.0¹⁵¹ built upon the results of STORK and had the same aim. It ran from 2012 to 2015 and involved Austria, Belgium, Czech Republic, Estonia, France, Greece, Iceland, Italy, Lithuania, Luxembourg, the Netherlands, Portugal, Slovenia, Slovakia, Spain, Sweden, Switzerland, Turkey and the United Kingdom. It delivered cross-border pilots, offering electronic identification integrated services in four different domains: e-Learning and Academic Qualifications, e-Banking, Public Services for Business and e-Health. The project allowed citizens to identify themselves across borders by using identity data from

¹⁴⁵ [MODINIS](#) project.

¹⁴⁶ [SEMIRAMIS](#) project.

¹⁴⁷ [SEMIRAMIS](#) project.

¹⁴⁸ The participating countries were Iceland, the UK, Sweden, Portugal, Spain, France, Belgium, Netherlands, Luxembourg, Italy, Germany, Austria, Slovenia, Estonia.

¹⁴⁹ [STORK](#) project.

¹⁵⁰ [STORK](#) project.

¹⁵¹ [STORK 2.0](#) project.

authentic and reliable sources (attribute providers) or to represent other natural or legal persons, in the context of different business domains¹⁵².

STORK 2.0 cross-border services confirmed the benefits of cross-border information exchange including, for the first time, information regarding legal persons. For example, electronic mandates from legal persons (e.g. companies) to natural persons (e.g. legal representatives) within the programme focusing on Public Services for the Business have facilitated access of foreign companies to e-gGovernment online services by allowing companies to obtain administrative permits, establish branch offices, etc. online¹⁵³.

Interoperability of national eID cards has not only been the aim of EU level projects. Projects carried out at the national level, thereby allowing two or more Member States to cooperate, have pursued the same objective.

For example, the Estonian e-bBusiness portal¹⁵⁴ allows the setting up of a simple limited liability company on line with either an Estonian eID card, or an eID card from Belgium, Portugal, Lithuania or Finland. German and Polish pension and social care services¹⁵⁵ provide for bilateral cross-border use of electronic identification schemes. Such examples provide a lower level of functionality compared to EU-wide mutual recognition of national electronic identification schemes; however, they still show the value of such services in cross-border situations¹⁵⁶.

Although it was not the aim of the above mentioned initiatives, in recent years, several discussions have taken place over e-democracy as a means to improve and expand citizens' participation in decision-making.

At the international level, a 2009 recommendation of the Council of Europe (CoE) on e-democracy¹⁵⁷ acknowledged the range of e-democracy initiatives carried out in Member States and recognised that ICT was progressively facilitating the democratic participation of citizens and contributing to the greater transparency and accountability of democratic institutions and processes. The same recommendation emphasised the importance of maintaining and improving democratic institutions and processes in the context of the new opportunities and challenges arising from the information society. It also underlined the existence of risks stemming from the lack of access to ICT and the inadequate e-literacy skills of certain segments of the population¹⁵⁸.

In 2008 the European Parliament published a study¹⁵⁹ analysing the potential of the internet in enhancing citizens' participation and involvement in the policy cycle and thereby enhancing e-democracy especially with regard to e-voting, e-public administration and e-participation. The study highlighted that e-participation to EU institutions' policy-making (for example through online forums and discussions about political issues) would provide an additional democratic form of European citizenship beyond the right to vote. However, this would imply the organisation of e-participation in a way that is accessible, transparent and meaningful for all European citizens. At the time the study concluded that due to cost-

¹⁵² [STORK 2.0](#) project.

¹⁵³ [STORK 2.0](#) project.

¹⁵⁴ E-RIK, [Centre of registers and information services](#).

¹⁵⁵ German Pension System [website](#).

¹⁵⁶ European Commission, '[Electronic identification, signatures and trust services: Questions & Answers](#)', Memo, Brussels 4 June 2012.

¹⁵⁷ CoE '[Electronic democracy \("e-democracy"\)](#)' Recommendation CM/rec(2009)1 and explanatory memorandum.

¹⁵⁸ CoE '[Electronic democracy \("e-democracy"\)](#)' Recommendation CM/rec(2009)1 and explanatory memorandum.

¹⁵⁹ European Parliament, STOA '[E-public, e-participation and e-voting in Europe - prospects and challenges](#)', (2011), IP/A/STOA/FWC-2008-96/LOT4/C1/SC2.

benefit considerations, technological issues and reasons of political legitimacy, EU e-democracy could not be built upon an EU-wide system of e-voting.

The above mentioned policy documents, highlight the important role of ICT in enhancing the democratic participation of citizens and the full enjoyment of EU citizenship rights, in particular, the political rights. Within this context, eID cards have already shown their importance in some Member States e.g. with regard to e-voting.

In light of the EU policies described above and the constant development of ICT, it is likely that further steps will need to be taken to fully enhance the enjoyment of EU citizenship rights including potentially through the setting up of a European ID card.

4. EUROPEAN ADDED VALUE AND PURPOSE OF A EUROPEAN IDENTITY DOCUMENT

KEY FINDINGS

- Most stakeholders were doubtful about the EU added value of a European ID card and called for more evidence regarding the role such card could play in enhancing EU political rights.
- Stakeholders noted that such an initiative should be need driven and supported by EU citizens.
- A minority of stakeholders could visualise some role for a European ID card in enhancing democratic participation rights at the EU level.
- More stakeholders referred to the possible use of a European ID card in enhancing the exercise of free movement rights.
- Desk research suggests the possible need for action at EU level (including possibly the adoption of a European ID card), as it seems that EU citizens, especially when moving around in Europe cannot make full use their democratic participation rights. This is to a certain extent due to administrative obstacles.

4.1. European added value of a European identity document

The European added value reflects the broader relevance and significance of European and related national actions. Referring to its European added value, this Section aims to show general stakeholder perception on the introduction of a European ID card to enhance citizens' participation in European democratic processes. This Study reflects the views of 42 stakeholders¹⁶⁰.

The minority of stakeholders (15)¹⁶¹ referred to the introduction of a European ID card as an important opportunity for strengthening the participation of EU citizens in the democratic life of the EU. Recognising the risks of turning this initiative into a symbolic step towards a 'federal Europe'¹⁶², these 15 stakeholders also referred to the need for this European ID card to have multiple purposes, thus not limiting it to democratic participation. They noted that EU citizens would better welcome a European ID card if it was also linked to the freedom of movement. These stakeholders underlined the importance for EU citizens to directly witness the strong advantages that this card will have on their daily lives, in terms of simplification of administrative burdens, travelling, and moving around within the EU. This view was also shared by some of those stakeholders who were not in favour of a European ID card (see below).

¹⁶⁰ Of these 42 stakeholders, nine were members of public authorities, two were members of civil society organisations, eight were academics, and 23 represented the category 'other'. This latter category covers all stakeholders who are not representing the civil society, the academia and public authorities.

¹⁶¹ Of these, six were members of public authorities, one of a civil society organisation, two were academics, and six were from the category 'other'.

¹⁶² The term 'Federal Europe', refers to a political entity which is characterised by a union of partially self-governing states operating under a central entity. More information is available on *inter alia* [WhygoFederal website, 'European Federation – Is it a Dream or a Nightmare?', \(2015\)](#).

Amongst the 15 stakeholders in favour of a European identity card, one¹⁶³ linked the benefits of its introduction to the current migration crisis, the increasing terrorism threats, the increasing security concerns, and the increasing cross-border crime. This stakeholder stated that the introduction of a single European ID card could ensure higher and more standardised controls and exchange of data across the EU. Such improvements are necessary given that these threats might lead to the dismantlement of a socio-economic area that has proven beneficial to all Member States for decades.

Some stakeholders¹⁶⁴ noted that a European ID card would be beneficial for the implementation and recognition of electronic identity technologies across Europe. Specifically, Member States would be keener to implement Regulation (EU) No. 910/2014 on electronic identification and trust services for electronic transactions in the internal market.

Most of the stakeholders consulted (27¹⁶⁵) considered that the introduction of a European ID card would not have European added value and, in particular, would not strengthen the participation of citizens in democratic processes. Some of these stakeholders (six¹⁶⁶) noted that any concrete initiative regarding the introduction of a European ID card should be based on a concrete need perceived by EU citizens. Moreover prior to framing a real initiative an impact assessment and public consultation would be necessary.

Along the same lines, ten¹⁶⁷ of these 27 stakeholders referred to the lack of tangible data and background information grounding the alleged relationship between the introduction of a European ID card and the improvement of EU citizens' participation in democratic life. These stakeholders stated that without an accurate set of data explaining this relationship it cannot be argued that this solution would be beneficial for EU democracy. Ten stakeholders stated that more effective mechanisms than the European ID card, could be put in place to strengthen EU citizens' participation in the democratic life of the EU. In this respect, six stakeholders further articulated that an improvement of EU citizens' participation in the democratic life of the EU could be achieved, amongst others, through (i) the strengthening of EU media coverage within Member States (i.e. investing more on EU related pages in national or local newspapers; creating a common EU magazine; reinforcing media coverage of EU actions and thereby strengthening the feeling of belonging to a common system); (ii) increasing knowledge of, and access to, EU documents and information by EU citizens; (iii) increasing involvement of EU citizens in the daily life of the EU (i.e. closer connection between national Members of the European Parliament and their electorate).

Amongst these 27 stakeholders, 14¹⁶⁸ affirmed that democratic rights and citizens' participation are currently regulated at the Member State level. Similarly to the argument given by the majority of stakeholders in favour of the introduction of this European ID card, these 14 stakeholders affirmed that the introduction of a European ID card would be more

¹⁶³ Representing a public authority.

¹⁶⁴ Of these, one was representing a public authority, and the other one was an academic.

¹⁶⁵ Of these, three were members of public authorities, one was member of a civil society organisation, six were academics, and 17 were from the category 'other'.

¹⁶⁶ Of these, one was member of a civil society organisation, three were academics, and two were from the category 'other'.

¹⁶⁷ Of these, one was member of a civil society organisation, three were academics, and six were from the category 'other'.

¹⁶⁸ Of these, one was member of a civil society organisation, two were academics, two were members of public authorities, and nine were from the category 'other'.

efficient for facilitating citizens' participation in democratic life, if envisaged also as a tool to also facilitate the freedom of movement and circulation across the EU.

Two stakeholders¹⁶⁹ further considered the confusion that this European ID card might create for non-national EU citizens currently entitled to national ID cards (e.g. requirements and procedures for obtaining national ID cards for non-EU citizen spouses of EU citizens differ between Member States). Only one stakeholder¹⁷⁰ of these 27 referred to the low participation rate of citizens in democratic processes as an issue at both European and national levels. This stakeholder, however, also stated that this type of issue would hardly be solved by the introduction of a European ID card.

All 27 stakeholders explicitly referred to the possible counter-productivity of introducing a European ID card, which EU citizens would most probably perceive as another overly complex and extremely costly bureaucratic set up at the EU level. According to these stakeholders, the introduction of a European ID card could jeopardise the objectives of the European project itself, boosting the nowadays-growing euro-scepticism. Some of these stakeholders recognised that the introduction of a European ID card might contribute to the enhancement of the EU citizenship feeling; however, this was not considered a strong enough element to warrant investment in such a project.

Based on the stakeholder interviews, it seems that a majority of stakeholders are rather doubtful about the European added value of a European ID card. It is important to note though that at least for the time-being no policy or legislative initiative for the adoption of a European ID card exists. Thus the stakeholders could not reflect on something tangible and instead provided their opinion in more general terms.

The desk research carried out under this Study, the results of which are presented under Section 3 (Rationale behind the introduction of a European identity document), seems to suggest however that there is a need for EU level action. It seems that EU citizens moving around Europe cannot make full use of their democratic participation rights. This is to a certain extent due to administrative obstacles.

The adoption of a European ID card could be one of the options that the European Union could consider while assessing the possible means to address the issues identified. Based on the stakeholders' views it seems however that this option might not be the most suitable one to enhance citizens' participation in European democratic processes. Therefore, other means such as the enhanced harmonisation of national ID cards could be considered.

In the context of the enhancement of free movement rights, the European Commission has already touched upon this possibility. On behalf of the European Commission, Ms Vera Jourova¹⁷¹ noted that a study assessing 'different policy options to facilitate EU free movement of persons' *inter alia* by reinforcing national ID cards was underway. An external study looking at *inter alia* the possible harmonisation of national ID cards was launched in 2015¹⁷². The results of this study have not been published yet.

¹⁶⁹ Of these, one was an academic and one was from the category 'other'.

¹⁷⁰ From the category 'other'.

¹⁷¹ [Parliamentary questions 'Answer given by Ms Jourová on behalf of the Commission' \(2015\)](#).

¹⁷² European Commission, '[Study to support the preparation of an impact assessment on EU policy initiatives on residence and identity documents to facilitate the exercise of the right of free movement](#)', 2015/S 139-255597.

4.2. Purpose of a European identity document

This sub-section presents stakeholders' views on the possible purpose of a European ID card especially with regard to enhancing citizens' participation in European democratic processes.

As mentioned above, 15¹⁷³ out of the 42 stakeholders consulted were in favour of the introduction of a European ID card.

When asked about the specific use of a European ID card in enhancing citizens' participation in democratic processes at the EU level, five stakeholders (out of the 15 stakeholders promoting the idea of a European ID card)¹⁷⁴ referred to the functionality of using it as a proof of identity while exercising voting rights in municipal and European Parliament elections and while signing up to an ECI.

The stakeholders also added that the European ID card could also ease the possibility for citizens to communicate with EU institutions, for example, by facilitating access to official EU documents.

The remaining ten stakeholders¹⁷⁵ recognised more general purposes not necessarily connected to EU political rights. They referred to the possible use of a European ID card in setting up cross-border businesses and accessing other Member States' services (e.g. e-health, e-education, social security etc.). It was argued that a common European ID card might reduce some administrative burdens that currently arise from the differences of national ID cards.

When asked what form such a European ID card should take, 13¹⁷⁶ stakeholders opted for the electronic format. One stakeholder¹⁷⁷ suggested the use of an eID card with two chips, one storing data of relevance in the national context (e.g. address, nationality, etc.) and a second storing data of relevance for EU level processes (e.g. biometrics). Another stakeholder¹⁷⁸ went further by affirming that a possible EU electronic identification scheme should be implemented by means of a more advanced system than a European eID card. The stakeholder argued that a mobile application or a similar electronic identification scheme is necessary given the current technological developments.

Most (27) of the stakeholders¹⁷⁹ did not support the introduction of a European ID card and did not attach a valuable purpose to it, besides maybe facilitating free movement. In general they also excluded the role that a European ID card might play in enhancing citizens' participation in democratic processes at the EU level. One of them¹⁸⁰, while rejecting the idea of a European ID card, expressed his preference for the enhancement of the mutual recognition of national ID cards. Two other stakeholders¹⁸¹ warned that citizens

¹⁷³ Of these, six were members of public authorities, one was of a civil society organisation, two were academics, and six were from category 'other'.

¹⁷⁴ Of which one was an academic and three members of public authorities, one was from the category 'other'.

¹⁷⁵ Of which two were representatives of civil society, five were members of public institutions and three fell under the category 'other'.

¹⁷⁶ Of these, five were members of public authorities, one was of a civil society organisation, two were academics, and five were from the category 'other'.

¹⁷⁷ Representative of a public authority.

¹⁷⁸ Academic.

¹⁷⁹ Of which, 19 fell under the category 'other', two were representatives of civil society; four were representatives of public authorities and three were academics.

¹⁸⁰ Representative of public authority.

¹⁸¹ Academics.

might be against the idea of adopting a European ID card with the purpose of enhancing their participation in democratic processes at the EU level and would see it is an additional bureaucratic burden for them.

In conclusion, stakeholders do not seem to acknowledge that it could play a role in enhancing citizens' participation in the European democratic processes.

5. LEGAL AND POLITICAL FEASIBILITY OF A EUROPEAN IDENTITY DOCUMENT

KEY FINDINGS

- There is no legal basis in the Treaties to legislate in connection with a European ID card, with the sole purpose of enhancing citizens' participation in democratic processes at the EU level. Legal basis for action at the EU level is provided in connection with the enhancement of free movement rights, which rights however cannot be seen in isolation from other EU citizenship rights (principle of conferral).
- Given that there are factors hindering the exercise of democratic participation rights by EU citizens which cannot be overcome by the Member States alone (principle of subsidiarity), EU action is necessary. While shaping the concept of a European ID card it should be assessed whether or not it is the most appropriate and least onerous tool to resolve the issues identified (principle of proportionality).
- The process of setting up a European ID card cannot be seen in isolation from data protection legislation and rules applicable to interoperability of electronic identification schemes. In terms of data protection, the storage of, access to and control of personal data are the main issues to consider. The need to ensure the interoperability of a European ID card with electronic identification schemes at the national level should also be addressed.
- Considering the variety of actors involved in decision-making processes at the EU level and thus the plethora of interests, it is crucial for the introduction of a European ID card to be backed by a sufficient level of political will. Member States' views might be controversial on many points, including the amount of data to be stored on the card or the link of the card with databases.

5.1. Legal feasibility

5.1.1. Legal basis

The purpose of this Section is to assess the extent to which the introduction of a European ID card is legally feasible, taking into account its perceived purpose of facilitating citizens' participation in democratic processes at the EU level.

The EU Treaties determine the boundaries of the EU's right to act. Pursuant to Article 5 of the TEU, setting out the **principle of conferral**, the EU can only act within the competences conferred upon it by the EU Treaties¹⁸². The TFEU distinguishes between three main categories of competences: exclusive, shared and supporting competences. Exclusive competence refers to those cases where only the EU has the power to act whereas shared competence refers to cases where the Member States can act provided that the EU has chosen not to. Supporting competence, which could also be referred to as coordinating or supplementary competence refers to areas reserved for Member States. The EU can only intervene to support, coordinate or complement the actions of Member States. The TFEU draws up a non-exhaustive list of areas concerned by each category of competence under

¹⁸² Article 5 of the TEU, setting out the principle of conferral, reads as follows: '2. Under the principle of conferral, the Union shall act only within the limits of the competences conferred upon it by the Member States in the Treaties to attain the objectives set out therein. Competences not conferred upon the Union in the Treaties remain with the Member States'.

its Articles 3 (on exclusive competence), 4 (on shared competence) and 6 (on supporting competence).

Article 4 of the TFEU specifies that shared competence between the Union and the Member States applies in the area of freedom, security and justice. This category covers a wide range of policy areas, including those linked to the exercise of citizenship rights¹⁸³.

The Treaties specifically empower the EU to legislate with respect to certain EU citizenship rights. This is the case in connection with some of the democratic participation rights as well, such as the rights to vote and stand as candidate in municipal and European Parliament elections (Articles 22(1) and (2) of the TFEU) and the right to start and sign up to an ECI (Article 24 of the TFEU). Whilst these provisions allow the EU to lay down detailed arrangements for the exercise of these rights, they do not provide the EU with the powers necessary to adopt provisions concerning ID cards.

The power to legislate in connection with ID cards is set out in Article 77(3) of the TFEU¹⁸⁴. This provision provides that within a special legislative procedure¹⁸⁵ the Council may adopt provisions concerning ID cards, in cases where EU level action would become necessary to facilitate the exercise of the rights under Article 20(2)(a) of the TFEU (the rights to move and reside freely within the territory of the Member States).

Therefore, EU action on ID cards can only occur within the legal parameters set out in Articles 77 and 20(2)(a) of the TFEU. As mentioned in Section 3 of this report (Rationale behind the introduction of a European identity document), free movement rights cannot be seen in isolation from other citizenship rights, thus from EU political rights. Any boundaries preventing citizens from moving around in Europe impede the full enjoyment of EU political rights, which are granted to all EU citizens regardless of where they reside within the EU. Also any difficulties linked to the exercise of EU political rights might discourage people from moving abroad and thus might have an impact on the exercise of the right to free movement.

It is also noted that despite the limitations of the legal basis set out in Article 77 of the TFEU, the EU has shown interest in legislating in connection with national ID cards. For example, the EU recently adopted Regulation (EU) No. 910/2014, taking full legal effect on 1 July 2016, which will create an EU-wide recognition system of electronic identification. This system will have an impact on national ID cards given that in certain Member States, such as Belgium or Estonia, identity cards are the sole documents used for electronic identification purposes.

While adopting Regulation (EU) No. 910/2014 the EU relied on Article 114 of the TFEU¹⁸⁶, which provides for the approximation of laws provided that is necessary for establishing or ensuring the functioning of the internal market.

¹⁸³ As highlighted by the [Tampere](#), [Hague](#) and [Stockholm programmes](#).

¹⁸⁴ Article 77, point 3 of the TFEU reads as follows: '3. If action by the Union should prove necessary to facilitate the exercise of the right referred to in Article 20(2)(a), and if the Treaties have not provided the necessary powers, the Council, acting in accordance with a special legislative procedure, may adopt provisions concerning passports, identity cards, residence permits or any other such document. The Council shall act unanimously after consulting the European Parliament.'

¹⁸⁵ This decision-making process constitutes a derogation from the ordinary legislative procedure in that the Council acts as sole legislator. The European Parliament's role is limited to consultation or approval depending on the case. Article 289 of the TFEU specifies the main rules applicable to special procedures.

¹⁸⁶ Article 114 of the TFEU reads as follows: '1. Save where otherwise provided in the Treaties, the following provisions shall apply for the achievement of the objectives set out in Article 26. The European Parliament and the Council shall, acting in accordance with the ordinary legislative procedure and after consulting the Economic and

In addition to the principle of conferral, the **principles of subsidiarity** and **proportionality** also determine the EU's right to act. These principles define the extent to which the EU can exercise its conferred powers.

In line with the principle of subsidiarity, the EU may act in areas falling under shared competence, provided that the problem is not sufficiently solved by the Member States (necessity test) and the objectives can be better achieved by the EU than by its Member States acting alone (test of EU added value)¹⁸⁷.

As highlighted by the findings in Section 3 of this report (Rationale behind the introduction of a European identity document), national ID cards differ to some extent in terms of basic features and functionalities. This may be considered to create some inequalities, especially for EU citizens residing in a Member State other than their own. By way of example, administrative processes linked to the exercise of EU political rights might be overly complex and create inequalities between nationals and non-nationals. As highlighted in Section 3 of this report, non-national EU citizens face registration related requirements prior to both municipal and European Parliament elections, which are considered as burdensome. Also, non-national EU citizens depending on their host Member State might or might not sign an ECI as supporters of the Member State where they reside. These issues which vary from Member State to Member State, cannot be overcome by the Member States alone and therefore action at the EU level might be necessary. For example, the revision of Regulation EU (No) 211/2011 seems to be necessary in order to guarantee 'citizens the possibility of signing an ECI in their country of residence'¹⁸⁸. The EU might then consider, also while further analysing the root causes of the problems, the role a European ID card might play in resolving the existing barriers.

In doing so, the EU will need to ensure compliance with the **principle of proportionality** in accordance with which the exercise of EU competence may not exceed what is necessary to achieve the objectives of the Treaty¹⁸⁹. In accordance with the principle of proportionality it is recommended that EU institutions while shaping the European ID card assess whether or not it is the most appropriate and least onerous tool to resolve the issues identified.

5.1.2. Legal framework

The TFEU provides that every citizen of an EU Member State is automatically an EU citizen and can enjoy democratic rights connected to EU citizenship, including the rights to vote and stand as a candidate in municipal and European Parliament elections, and the right to initiate or sign up to an ECI.

As highlighted in Section 3 of this Study (Rationale behind the introduction of a European identity document), rules related to the use of ID cards while exercising these rights show

Social Committee, adopt the measures for the approximation of the provisions laid down by law, regulation or administrative action in Member States which have as their object the establishment and functioning of the internal market.'

¹⁸⁷ Article 5 of the TEU, setting out the principle of subsidiarity, reads as follows: '3. Under the principle of subsidiarity, in areas which do not fall within its exclusive competence, the Union shall act only if and in so far as the objectives of the proposed action cannot be sufficiently achieved by the Member States, either at central level or at regional and local level, but can rather, by reason of the scale or effects of the proposed action, be better achieved at Union level.'

¹⁸⁸ [European Parliament resolution of 28 October 2015 on the European Citizens' Initiative \(2014/2257\(INI\)\). \(2015\).](#)

¹⁸⁹ Article 5 of the TEU, setting out the principle of proportionality, reads as follows: '4. Under the principle of proportionality, the content and form of Union action shall not exceed what is necessary to achieve the objectives of the Treaties.'

some differences depending on the Member State concerned, thereby making the system somewhat complicated. Moreover, the use of ICT in some Member States' ID cards has increased (e.g. use of eID cards). These eID cards allow for certain electronic functionalities that non-electronic ID cards of other Member States cannot provide. In this context and given the lack of rules at the EU level, the EU fails to provide equal footing to all its citizens.

Therefore, the introduction of a European ID card could potentially be considered. In order to set up an operable European ID card, certain complementary issues should be carefully assessed e.g. data protection and interoperability with other electronic identification schemes (e.g. card, mobile application, on-line code).

This Section outlines the legal framework regulating these complementary processes, which would need to be taken into account when setting up a European ID card.

Data protection

Considering the perceived function of a possible European ID card (i.e. facilitate citizens' participation in EU democratic processes), it is likely that such tool would need to store and provide some personal information linked to the card holder. This assumption is based on the findings of the stakeholder consultation carried out. An assessment relevant to this aspect is provided under Section 6.1 of this Study (Data to be stored on and provided by a European identity document). Considering this and the fact that the data would most probably be processed and accessed by different EU and national authorities or private entities (e.g. banks, hospitals, insurance companies), it is of utmost importance to protect the data stored on the document.

The EU has already been active in the field of data protection.

Articles 7 and 8 of the EU Charter of Fundamental Rights recognise the right to the protection of personal data as a fundamental right. Article 16 of the TFEU also spells out the right to protection of personal data. It empowers the European Parliament and the Council to adopt rules within the ordinary legislative procedure¹⁹⁰ on 'the protection of individuals with regard to the processing of personal data by EU institutions, bodies, offices and agencies, and by the Member States when carrying out activities that fall within the scope of Union law and the rules relating to the free movement of such data'¹⁹¹.

Secondary EU legislation on personal data protection includes Directive 95/46/EC¹⁹². This Directive aims to protect the fundamental right to data protection and to guarantee the free flow of personal data between Member States. It was complemented by Framework Decision 2008/977/JHA¹⁹³ aiming at the protection of personal data in the areas of police and judicial co-operation in criminal matters¹⁹⁴.

¹⁹⁰ The ordinary legislative procedure gives the same weight to the European Parliament and the Council of the European Union on the adoption of legislative instruments in a wide range of areas (e.g. immigration, energy, transport). See European Parliament, '[Legislative powers - ordinary legislative procedure](#)'.

¹⁹¹ [Article 16 of the TFEU](#).

¹⁹² [Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data, OJ L 281, 23 November 1995](#).

¹⁹³ [Council Framework Decision 2008/977/JHA of 27 November 2008 on the protection of personal data processed in the framework of police and judicial cooperation in criminal matters, OJ L 350 of 30 December 2008](#).

¹⁹⁴ [Proposal for a Regulation of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data and on the free movement of such data \(General Data Protection Regulation\), COM/2012/011 final - 2012/0011 \(COD\)](#).

The EU legal framework on data protection also includes Directive 2009/136/EC¹⁹⁵ relating to privacy with regard to ICT and Regulation (EC) No 45/2001¹⁹⁶ on the processing of personal data by Community institutions and bodies and on the free movement of such data.

In 2012 the Commission put forward a proposal to reform EU data protection rules in a comprehensive manner through a consistent legislative framework across Union policies. The Commission supports the adoption of comprehensive legislation because of the new challenges in the field of data protection. These new challenges are due to the rapid technological developments and to the increased scale of data sharing and data collection by both private and public entities. Personal data protection plays a central role in the Digital Agenda for Europe, and more generally in the Europe 2020 Strategy¹⁹⁷.

The new framework consists of¹⁹⁸:

- A Regulation of the European Parliament and of the Council (replacing Directive 95/46/EC) on the protection of individuals with regard to the processing of personal data and the free movement of such data (General Data Protection Regulation)¹⁹⁹; and
- A Directive of the European Parliament and of the Council (replacing Framework Decision 2008/977/JHA) on the protection of individuals with regard to the processing of personal data by competent authorities for the purposes of prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and the free movement of such data (Police Directive)²⁰⁰.

The reform aims at safeguarding personal data across the EU and increasing users' control over their data. A single law will help the EU overcome the fragmented nature of the EU *acquis* and the administrative burdens resulting from the insufficient implementation of existing legislative instruments by the Member States²⁰¹.

The final texts of the new EU data protection framework were published in the Official Journal L 119, Volume 59, on 4 May 2016. The framework must be implemented by

¹⁹⁵ [Directive 2009/136/EC of the European Parliament and of the Council of 25 November 2009 amending Directive 2002/22/EC on universal service and users' rights relating to electronic communications networks and services, Directive 2002/58/EC concerning the processing of personal data and the protection of privacy in the electronic communications sector and Regulation \(EC\) No 2006/2004 on cooperation between national authorities responsible for the enforcement of consumer protection laws, OJ L 337 of 18 December 2009.](#)

¹⁹⁶ [Regulation \(EC\) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data, OJ L 8 of 12 January 2001.](#)

¹⁹⁷ [Proposal for a Regulation of the European Parliament and of the Council on the Protection of individuals with regard to the processing of personal data and on the free movement of such data \(General Data Protection Regulation\), COM/2012/011 final - 2012/0011 \(COD\).](#)

¹⁹⁸ [Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions Safeguarding Privacy in a Connected World A European Data Protection Framework for the 21st Century, COM/2012/09 final.](#)

¹⁹⁹ [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.](#)

²⁰⁰ [Directive \(EU\) 2016/680 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 by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data, and repealing Council Framework Decision 2008/977/JHA, OJ L 119, 4.5.2016, p. 89–131.](#)

²⁰¹ European Parliament at your service '[Personal Data Protection](#)'.

Member States by 25 May 2018 with some exceptions (e.g. the UK and Ireland will implement the Police Directive to a limited extent).²⁰².

Common EU rules with regard to data protection would ensure the same level of protection in all Member States and a smooth transfer of data across borders. This aspect would become even more relevant should a European ID card be issued.

Such an ambitious project might, however, face several challenges. For example biometric data (which is classed as sensitive personal data in the General Data Protection Regulation), will most likely be included in a European ID Card. The use of biometric data will therefore require explicit and informed consent from the data subject and precise rules on who can access them. In fact, sensitive personal information when linked together could allow for the creation of personal profiles and this might increase the risk of violating privacy rights. The right to privacy could also be endangered by the fact that biometric data could be used for secondary purposes not necessarily compatible with the purposes for which the data were initially collected. This may, for example, happen when third parties gain access to biometric data and bring them together with other information, without the consent of the data subject²⁰³.

In this regard it would be advisable that Member States adopt additional legislation that will address relevant data processing concerns (e.g. data sharing, data use) and security measures within the context of the implementation of a European ID card. Such legislation could also create specific offences to deter certain kinds of undesirable activities.

With specific regard to biometric data, Article 9(4) of the New General Data Protection Regulation states that 'Member States may maintain or introduce further conditions, including limitations, with regard to the processing of genetic data, biometric data or data concerning health'. This Article therefore provides the legal basis for the introduction of stricter national rules when using biometric data within the context of a European ID card scheme.

The New General Data Protection Regulation also mandates data protection by default (Article 25) and calls for the adoption of privacy enhancing measures such as encryption and pseudonymisation. These new requirements will go a long way to addressing current privacy and data protection concerns.

When data are collected and subsequently processed, it is important to have clear definitions of who the data controller and the data processor are. The responsibilities of these bodies and in particular their roles in ensuring the security of data should be clearly defined. Moreover, the rights of the data subject to for example data access, rectification, erasure etc. should be clarified. In practice, it is often difficult to assess whether an entity is acting as a controller or processor as the distinction is based on the entities' concrete activities in a specific context. To illustrate, the same entity may act at the same time as a controller or as a processor depending on the operation concerned²⁰⁴.

²⁰² European Parliament '[Data protection reform - Parliament approves new rules fit for the digital era](#)'.

²⁰³ Iglezakis, I., 'EU data protection legislation and case-law with regard to biometric applications' [2011] An Information Law for the 21st Century.

²⁰⁴ ULD '[Future ID- Legal analysis of eID client services](#)', (2015).

Interoperability of electronic identification schemes

The term 'interoperability' refers to the capacity of two programmes (e.g. a client and a server) to exchange and interpret each other's data properly. Interoperability has become particularly relevant with the deployment of smart/electronic cards across Europe²⁰⁵. However, insufficient cross-border interoperability prevents citizens from benefitting fully from all functionalities of the national electronic identification schemes (which category includes also eID cards).

In order to achieve cross-border interoperability and to provide an interconnected electronic service, at least four levels of interoperability are required namely: organisational, semantic, technical and legal²⁰⁶.

In the context of a European eID card, organisational interoperability could concern the adoption of mutually or commonly agreed rules for managing data related to eID cards, e.g. data exchange procedures and security levels. Semantic interoperability concerns the ability to ensure that data exchanged between entities (systems, services or users) has the same meaning, syntax and structure and is unambiguously interpreted by all entities²⁰⁷. Technical interoperability concerns the ability of the information and communication technologies (and their applications) used in a cross-border eID card scheme to have compatible technical standards (e.g. the IAS-ECC standard²⁰⁸), and to communicate and exchange data in an effective and efficient manner. Legal interoperability concerns the legal framework (e.g. laws, policies, procedures) that regulates the operation of the eID scheme and associated services in EU Member States. Such a framework must allow for the smooth exchange of data between different organisations and Member States²⁰⁹.

The capacity of two programmes to exchange and interpret each other's data properly is an important aspect to be considered while setting up a European ID card, especially if it would allow for electronic functionalities. The European eID card, if introduced as an addition to national ID cards would need to be interoperable with those electronic identification schemes of Member States that are affected by the use thereof. Should a European eID card follow the pattern of the European passports, thus allow for the harmonisation of certain features of national eID cards, interoperability of national eID schemes will need to be enhanced. Regarding this point it is noted that these models for a European ID card were suggested by the stakeholders interviewed (Section 6.3 – Interplay of a European identity document with national identity documents).

On the basis of the above, interoperable electronic identification schemes and electronic Trust Services (eTS) are key elements for securing cross-border electronic transactions. These aspects will be even more relevant should a European eID card be adopted in the future.

²⁰⁵ IDABC '[Towards interoperable eIDs for European Citizens](#)', (2005).

²⁰⁶ Lampathaki, F. et al, (2013), National Interoperability Frameworks: The Way Forward, in Information Resources Management Association (Editors), IT Policy and Ethics: Concept, Methodologies, Tools and Applications, 2013, IGI Global.

²⁰⁷ Lampathaki, F. et al, (2013), National Interoperability Frameworks: The Way Forward, in Information Resources Management Association (Editors), IT Policy and Ethics: Concept, Methodologies, Tools and Applications, 2013, IGI Global.

²⁰⁸ [Position Paper European Citizen Card: One Pillar of Interoperable eID Success, October, 2008](#)

²⁰⁹ Lampathaki, F. et al, (2013), National Interoperability Frameworks: The Way Forward, in Information Resources Management Association (Editors), IT Policy and Ethics: Concept, Methodologies, Tools and Applications, 2013, IGI Global.

In this context, the EU has recently adopted Regulation (EU) No. 910/2014 providing the legal grounds for the mutual recognition of electronic identification schemes and thereby enabling EU citizens to carry out cross-border interactions using electronic identification technologies. The Regulation enhances trust in electronic transactions in Member States, by 'providing a common foundation for secure interaction between citizens, business and public authorities' (Recital 2). The Regulation ultimately aims to ensure that EU citizens and businesses can use their own national electronic identification schemes to access public services in other EU Member States where electronic identification schemes are available. It also aims to ensure that eTS, such as electronic signatures, electronic seals, time stamp, electronic delivery service and website authentication will work across borders and have the same legal status as traditional paper based documents²¹⁰.

The box below lists the activities that may be carried out by using electronic identification schemes and/or eTS.

Box 4: Non-exhaustive list of activities to be carried out by electronic identification schemes and eTS

Instrument	Purpose
eSignature	It is the electronic equivalent of a handwritten signature.
eIdentification ²¹¹	It unambiguously determines a person or entity's identity. Eidentification can be provided via smart cards, mobile phones, or other technologies.
estamping	It shows the date and time on an electronic document which proves that the document existed at a point-in-time and that it has not changed since then.
eseal	It is the electronic equivalent of a seal or stamp which is placed on a document to guarantee its origin and integrity.
website authentication	It entrusts the information contained on a website, allowing users to verify the authenticity of the website. It also links the information contained on the website to the entity/person owning it.
edelivery ²¹²	It is a service that, to a certain extent, is the equivalent in the digital world of registered mail in the physical world.

Regarding the benefits of Regulation (EU) No. 910/2014 in practice the following could be mentioned: higher security for any online activity such as submitting tax declarations, enrolling in a foreign university, opening a bank account, setting up a business in another Member State, etc.²¹³.

²¹⁰ European Commission, '[Digital agenda for Europe – Trust Services and eID](#)'.

²¹¹ Some Member States combine an electronic identification functionality with that of an identity card used also as a travel document, others have a citizen card to access public online services, others work with mobile devices, or a combination of card and phone. EID cards exist in: Belgium, Estonia, Finland, Germany, Italy, Portugal, Spain. Other forms of electronic identification documents, like citizen cards and access tokens are used in: Austria, Czech Republic, Denmark, Lithuania, Luxembourg, The Netherlands, Slovakia, Slovenia and Sweden.

²¹² Currently, the legal effect of the registration of an email stops at the border of the Member State of origin of an e-mail, unless the Member State of destination recognises the registered nature of the email.

²¹³ European Commission, '[Digital agenda for Europe – Trust Services and eID](#)'.

The European Commission also adopted the following four instruments to ensure full implementation of the Regulation:

- Implementing Decision (EU) 2015/296²¹⁴ on procedural arrangements for Member States cooperation on electronic identification aimed at ensuring interoperability and security of electronic identification schemes²¹⁵;
- Implementing Regulation (EU) 2015/1501²¹⁶ on the interoperability framework. The Regulation creates a platform that fosters interoperability to enable connectivity between different national electronic identification means²¹⁷;
- Implementing Regulation (EU) 2015/1502²¹⁸ on setting out minimum technical specifications and procedures for assurance levels for electronic identification means. EID mutual recognition aims at making sure that EU citizens can interact across borders with their own national electronic identification schemes. However, Member States have separate systems to manage electronic identification schemes and a common mechanism is needed to make them interoperable. The Commission instrument includes detailed criteria which allow Member States to map their electronic identification schemes against a benchmark and to make them comparable to each other²¹⁹;
- Implementing Decision (EU) 2015/1984²²⁰ defining the circumstances, formats and procedures of notification. The decision ensures uniform use of the notification form of electronic identification schemes by Member States. The notification system is in fact a prerequisite of mutual recognition of electronic identification means²²¹.

Ultimately, Regulation (EU) No. 910/2014 could provide a good starting point for a European eID card by creating a more interoperable framework (both legally and from a technical point of view)²²².

This starting point relates to the introduction of the mutual recognition among Member States of methods of e-identification and trust services (e.g. e-signatures, e-stamping, e-seals, website authentication, and e-delivery). This enables eIDs obtained in one Member State to be used in another Member State. While the effects of the Regulation in some ways deflate the argument for a common European eID card, there are several ways in which this Regulation would support the eventual setting up of a European eID. These include²²³:

²¹⁴ [European Commission, Implementing Decision \(EU\) 2015/296 of 24 February 2015 establishing procedural arrangements for cooperation between Member States on electronic identification pursuant to Article 12\(7\) 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 Text with EEA relevance, OJ L 53 of 25 February 2015.](#)

²¹⁵ European Commission, 'Digital agenda for Europe – Trust Services and eID'.

²¹⁶ [European 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, OJ L 235, 9 September 2015.](#)

²¹⁷ European Commission, 'Digital agenda for Europe – Trust Services and eID'.

²¹⁸ [European Commission, Implementing Regulation \(EU\) 2015/1502 of 8 September 2015 on setting out minimum technical specifications and procedures for assurance levels for electronic identification means pursuant to Article 8\(3\) 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, OJ L 235, 9 September 2015.](#)

²¹⁹ European Commission, 'Digital agenda for Europe – Trust Services and eID'.

²²⁰ [European Commission, Implementing Decision \(EU\) 2015/1984 of 3 November 2015 defining the circumstances, formats and procedures of notification pursuant to Article 9\(5\) 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, OJ L 289, 5. November 2015.](#)

²²¹ European Commission, 'Digital agenda for Europe – Trust Services and eID'.

²²² ULD 'Future ID- Legal analysis of eID client services', (2015).

²²³ Analysis provided on the basis of the legal research carried out.

- *Establishment of the legal validity of trust services for cross-border use.* The Regulation has paved the way for cross-border use and provision of various trust services. These trust services will play an important role in the development of a digital single market, that can foster greater European unity/identity and the fervour for and acceptance of a common European eID.
- *Enabling secure and seamless interactions between entities (citizens, public authorities and businesses) across the EU using eIDs.* The Regulation initiates and enables secure and seamless interactions between various entities (citizens, public authorities and businesses) across the EU. This will stimulate trust and increase interactions between entities in different Member States, paving the way for a smooth transition to the implementation of a European eID card.
- *Establishment of a predictable legal framework for entities (citizens, public authorities and business) involved in the provision of services or access to services using eIDs.* The establishment of this predictable legal framework can provide a useful model for the functioning of a European eID scheme.
- *Establishment of an interoperability framework adaptable to a European eID scheme.* The Regulation and its supporting instruments will establish an interoperability framework for Member States' eID schemes. This interoperability framework will have various technical and operational requirements (as detailed in Implementing Regulation (EU) 2015/1501) adaptable to setting up a European eID scheme. These requirements address issues such as: data privacy and confidentiality, data integrity and authenticity for communications; security standards and technical specifications.
- *Opportunity for increased organisational, semantic and technical interoperability in relation to eIDs.* Implementing the Regulation can lead to an increase in organisational, semantic and technical interoperability, as a matter of practicality and functional effectiveness. This can provide an ideal infrastructure suited for a transition to a European eID scheme.
- *Opportunity for convergence of many different eID schemes to a small number of schemes reflecting some form of standardisation to reduce complexity.* Standardisation and complexity reduction can bring a greater degree of harmonisation of existing eID schemes making a European eID scheme more feasible.

5.2. Political feasibility

Law-making within the EU may involve a wide range of actors, depending on the decision-making procedure used. For instance, whilst the ordinary legislative procedure²²⁴ (previously co-decision) involves all main EU institutions (i.e. European Commission, Council of the European Union, European Parliament), the special legislative procedure²²⁵ (previously consultative, cooperation and assent procedures) is typically linked to one sole legislator, the Council of the European Union or the European Parliament. Considering the variety of actors and thus the plethora of interests, it is crucial for the adoption of any initiative to be backed by a sufficient level of political will.

²²⁴ Article 294 of the TFEU lays down the main features of ordinary legislative procedures.

²²⁵ Article 289 of the TFEU lays down the definition of special legislative procedure.

The idea of creating a European ID card had already emerged during the early 2000s, but was dropped due to *inter alia* political obstacles²²⁶. A similar issue could be observed in 2005²²⁷ following the adoption of the Hague programme, in which the European Council invited the Council of the European Union, the European Commission and the Member States to prepare minimum standards for national ID cards. While discussions were on-going within the Council of the European Union, important stakeholders expressed concerns regarding the lack of legislative power of the EU to introduce minimum standards for national ID cards. The 2005 initiative was never translated into a legally binding measure.

This Study aimed to identify interests which could come into play while debating the introduction of a European ID card. As explained under Section 3.1.1 (Existence of national ID cards) there are three Member States in the EU – Denmark, Ireland and the United Kingdom – where no national ID cards exist. In these Member States there is no political will to adopt national ID cards, thus it is likely that these Member States will show some reluctance with respect to the adoption of a European ID card as well. As explained under Section 3.1.1 (Overview of national identity cards) in these Member States it seems to be a common argument that due to the lack of sufficient data protection safeguards, a single national ID card allowing for all sorts of functionalities and storing a wide-range of information would be unsafe. Concerns over the cost implications of the introduction of a national ID card also seem to be common and have emerged both in Ireland and the United Kingdom.

Opinions might also clash between Member States where national ID cards rely on or are connected to centralised databases and Member States where these links are intentionally weaker. In Germany, for example the centralisation of registers, including population registers that usually provide the personal information described in the ID cards, is forbidden for historical reasons and it is prohibited to link information stored in different databases²²⁸. The German Federal Constitutional Court declared that the systematic creation by the State of a personal profile or a catalogue containing extensive information on certain citizens or on the whole population is not compatible with human dignity²²⁹.

Questions on the political feasibility of introducing a European ID card were also addressed to stakeholders. Most stakeholders (26)²³⁰ interviewed considered that the idea of setting up a European ID card would not obtain the necessary political support. These stakeholders used a variety of arguments to justify their statements:

- Nine of these stakeholders²³¹ noted that the introduction of a European ID card would require an agreement on too many sensitive issues, such as security features, data protection and the selection of an issuing authority.
- Nine stakeholders²³² noted that the EU lacked the necessary competence to legislate in this area, thus the initiative would already fail the legal feasibility test.

²²⁶ Euronews, 'Is an EU identity card on the cards?' (2012).

²²⁷ More information on the matter is available in [Council of the European Union, Note 11092/05 on 'Minimum common standards for national identity cards' \(2005\)](#).

²²⁸ Gajdošová 'Article 8 ECHR and its impact on English law' (2008) (PhD Thesis - University of East Anglia).

²²⁹ Fedtke, J., 'Identity Cards and Data Protection: Public Security Interests and Individual Freedom in Times of Crisis' [2006] International Journal of Law and Information Technology Vol. 15, No. 3.

²³⁰ Out of which nine were civil society representatives, three were academics, two were representing public authorities and 15 fell under the category of 'other'.

²³¹ Out of which one was a civil society representative, one was an academic, and seven fell under the category of 'other'.

²³² Out of which one was representing a public authority, six fell under the category of 'other', one was a civil society representative and one was an academic.

- Three stakeholders²³³ claimed that the timing of the initiative was problematic as the concept of European integration is currently under strain. According to these three stakeholders, issues such as the possible exit of the United Kingdom from the EU²³⁴ or the rule of law crisis in Poland²³⁵ would need to be solved first. Ideas that could potentially be seen as manifestos of a federal Europe might lack political support under these circumstances.
- According to four stakeholders²³⁶, countries where national IDs are not in use, such as the UK, would block the idea of a European ID card.
- One stakeholder²³⁷ argued that the low participation rate of citizens in democratic processes is an issue also at the national level, which none of the Member States has managed to solve. It is unlikely that Member States would see potential in a European ID card.

Fifteen stakeholders²³⁸ did not comment on the political feasibility of a European ID. This could be attributed to the fact that all of these stakeholders had strong concerns about the necessity/added value of introducing a European ID.

Only one stakeholder²³⁹ took the view that the introduction of a European ID card should receive political support, considering its perceived advantages for EU citizens. Whilst being overly positive about a European ID card, the stakeholder did not touch upon the advantages thereof in facilitating citizens' participation in democratic processes at the EU level. Instead he referred to the possible role of a European ID card in facilitating the free movement of citizens.

In light of the above, it is recommendable that these aspects are carefully considered by the EU before starting any political discussions on the introduction of a European ID card.

²³³ Out of which one was representing a public authority and two fell under the category of 'other'.

²³⁴ [Euractive, 'UK referendum on Europe'](#).

²³⁵ The European Commission launched a discussion regarding the respect for the Rule of Law in Poland under the Rule of Law Framework. More information on the matter is available on the [European Commission's website](#).

²³⁶ Out of which one was representing a public authority, and three fell under the category of 'other'.

²³⁷ The stakeholder fell under the category of 'other'.

²³⁸ Out of which one was representing a public authority, 11 fell under the category of 'other', one was a civil society representative and two were academics

²³⁹ The stakeholder was representing a public authority.

6. PRACTICAL CONSIDERATIONS

KEY FINDINGS

- Data to be stored and type of content: decision over the amount and type of data to be stored on the ID card is important, given that the card should be fit for the purpose it was created for, but at the same time should protect the privacy of the data holder. It is also important to check the extent to which the datasets contained on the card rely on or are connected to databases. The amount and type of data stored on the European ID card should enhance the democratic participation of EU citizens at the EU level.
- Access to data: the research revealed the necessity of striking a balance between allowing access to data and protecting the privacy of the users' personal data.
- Potential security risks: protection against security threats is a key element according to almost all stakeholders.
- Issuance and management of a European identity document: the adoption of clear rules on the issuance and management of a European ID card is necessary. This should extend to a decision on whether the responsibility for issuing a European ID card should be centralised (responsibility given to a single authority) or decentralised (responsibility given to authorities at the Member State level).
- Interplay of a European identity document with national identity documents: European ID card could either replace national ID cards or co-exist with them. Potentially, mobile EU citizens would need to mandatorily obtain a European ID card.
- The use of electronic identification technologies: stakeholders argued for the inclusion of electronic identification technologies in a possible European ID card.

This Section maps possible requirements for the setting up of a European ID card, taking into account that the European ID card is perceived to be a tool for facilitating citizens' participation in democratic processes at the EU level.

This Section mainly relies on the views of the 42 stakeholders interviewed between 26 January 2016 and 1 March 2016. Desk research was carried out to complement the information gathered via stakeholder interviews.

6.1. Data to be stored on and provided by a European identity document

This sub-section maps the type of data that could be stored on a European ID card. It also refers to the type of authorities that could possibly access the data stored on the European ID card.

Data to be stored and type of content

Input in this respect was provided by 24 stakeholders²⁴⁰ only, as 18 stakeholders²⁴¹ who expressed doubts about the EU added value of a European ID card were unable to address the relevant interview questions.

²⁴⁰ Of these, eight were representatives of public authorities, two were members of civil society organisations, three were academics, and 11 were from the category 'other'.

Stakeholders often referred to the importance of providing a minimum list of data to be included in the European ID card by the EU, which the Member States may further complete at national level. Stakeholders also referred to the importance of ensuring that the data and applications of these electronic documents are designed on interoperable and compatible smart cards across the EU.

Considering the perceived purpose of the European ID card, 13 stakeholders²⁴² stated the need to differentiate between data to be contained at the plastic card level, and data to be contained at the chip level.

The box below provides a brief summary of the input collected²⁴³:

Box 5: Stakeholder views regarding the data to be stored on a European ID card

Plastic card	Name	24 stakeholders ²⁴⁴
	Surname	24 stakeholders ²⁴⁵
	Photo	24 stakeholders ²⁴⁶
	Nationality	8 stakeholders ²⁴⁷
	No. of ID card	3 stakeholders ²⁴⁸ referred to the need of a standardised system for numbering the European ID cards
	Date of birth	11 stakeholders ²⁴⁹
	Place of birth	11 stakeholders ²⁵⁰
	National security No. social	3 stakeholders ²⁵¹ referred to the inclusion of this data as beneficial; 2 stakeholders ²⁵² considered this information as unnecessary due to the minimum functionalities to be granted to this document; 1 stakeholder ²⁵³ referred to the need of replacing the current national security number with the European

²⁴¹ Of these, one was a representative of a public authority, five were academics, and 12 were from the category 'other'.

²⁴² Of these, three were representatives of public authorities, one was an academic, and nine were from the category 'other'.

²⁴³ The one stakeholder in favour of the introduction of the EU identity document in the format of a mobile application referred to all the information contained in this box to be included in the application itself.

²⁴⁴ Of these, eight were representatives of public authorities, two were members of civil society organisations, three were academics, and 11 were from the category 'other'.

²⁴⁵ Of these, eight were representatives of public authorities, two were members of civil society organisations, three were academics, and 11 were from the category 'other'.

²⁴⁶ Of these, eight were representatives of public authorities, two were members of civil society organisations, three were academics, and 11 were from the category 'other'.

²⁴⁷ Of these, six were representatives of public authorities, one was member of a civil society organisation, and two were from the category 'other'.

²⁴⁸ Of these, three were from the category 'other'.

²⁴⁹ Of these, six were representatives of public authorities, one was member of a civil society organisation, and four from the category 'other'.

²⁵⁰ Of these, six were representatives of public authorities, one was member of a civil society organisation, and four were from the category 'other'.

²⁵¹ Of these, one was a representative of a public authority, and two were from the category 'other'.

²⁵² Both were from the category 'other'.

		security number
	Statements for organs and skin donations	3 stakeholders ²⁵⁴ referred to the importance of granting citizens with the possibility of including this data
Chip	Address ²⁵⁵	11 stakeholders ²⁵⁶
	Working address	2 stakeholders ²⁵⁷
	Biometrics	7 stakeholders ²⁵⁸ referred to the inclusion of this information as beneficial. These stakeholders also referred to the importance of securing such data using the same security and data protection systems currently implemented for European passports. 1 stakeholder ²⁵⁹ specifically stated the importance of following recommendation from ICAO Doc9303 and the EU Regulation on biometrics identification and travel document to guarantee the interoperability of the document; 1 stakeholder ²⁶⁰ referred to the need to keep the inclusion of fingerprints optional and the inclusion of face recognition mandatory; 2 stakeholders ²⁶¹ considered this information as not necessary due to the minimum functionalities to be granted to this document
	Additional data	Depending on the purpose given to the European ID card, some stakeholders ²⁶² considered the possibility of including on the chip health and banking related data, data linked to the democratic participation of EU citizens, some other information linked to the legal status of persons and information on the blood type of the person's concerned, etc.

The desk research, which focused on requirements on national ID cards, confirmed that the amount and type of information stored on national ID cards is an important aspect to consider²⁶³.

²⁵³ From the category 'other'.

²⁵⁴ Of these, one was an academic, and two were from the category 'other'.

²⁵⁵ When requested to provide input on the possibility to include or not the address, most stakeholders referred to the need to differentiate between permanent and temporary address, which concepts should be harmonised across the Member States.

²⁵⁶ Of these, five were representatives of public authorities, one was member of a civil society organisation, and five were from the category 'other'.

²⁵⁷ Of these, both were from the category 'other'.

²⁵⁸ Of these, four were representatives of public authorities, one was a member of a civil society organisation, and two were from the category 'other'.

²⁵⁹ Representative of a public authority.

²⁶⁰ Representative of a public authority.

²⁶¹ Of these, one was a representative of public authorities, and one was from the category 'other'.

²⁶² Mostly from the others category.

²⁶³ M. Froomkin, Identity Cards and Identity Romanticism (November 30, 2008). Lessons from the identity trail: Anonymity, privacy and identity in a networked society, New York: Oxford University Press, 2009; University of Miami Legal Studies Research Paper No. 2008-41, p. 21.

It was also revealed that cards carrying chips, even if these chips contain a relatively small amount of data, might 'serve as a connection to databases of unlimited size and details'²⁶⁴. The importance of this aspect could be illustrated through an example from the UK, where concerns over this arose, while the necessity of a national ID card was debated (Section 3.1.1 – Existence of national ID cards). The amount of information that the National Identity Register would have been able to collect about each individual turned out to be a controversial issue, ultimately contributing to the failure of the initiative to introduce a national ID card²⁶⁵.

These are important aspects to consider while deciding over the necessity to introduce a European ID card. The amount of information stored on the card should be fit for the purpose of the card. In the context of this study this implies that the amount and type of data stored on the European ID card should enhance the democratic participation of EU citizens at the EU level. In the context of the rights to vote and stand as a candidate in municipal and European Parliament elections a European ID card could potentially serve as a 'one-stop-shop', containing all necessary information that non-nationals should provide to the competent authorities of the host Member State prior to exercising their voting rights. As described under Section 3, currently, non-nationals are asked to provide the authorities with various information contained on different cards (e.g. identity to be proven by an ID document, residence to be proven by a document issued by the host Member State) or in more than one document (e.g. document proving that the voting rights of the person concerned have not been withdrawn). With respect to the ECI, the main issue stems from the complexity of the applicable rules differing from Member State to Member State. In most Member States, non-nationals are not allowed to sign an ECI as supporters of their host Member State, unless they have a document issued by the host Member State. This is due to the fact that it is the host Member State's responsibility to check the validity of the signatures. In the absence of interoperable systems, the host Member State cannot check the validity of national ID documents issued by the home Member State of a non-national, thus the aforementioned limitation. A European ID card, containing uniform and controllable data with respect to all EU citizens, might contribute to resolving this complex situation.

Moreover, in the absence of a European database containing the personal data of EU citizens, its connection with national level databases would need to be assessed.

Access to data

With respect to the authorities that can access and store the data contained in the European ID card, often stakeholders referred to the high risk of sensitive discussions that this topic might create among the Member States.

Inputs in this respect were received from 26 stakeholders²⁶⁶. Sixteen stakeholders²⁶⁷ who expressed doubts about the EU added value of a European ID card did not address the relevant interview questions.

²⁶⁴ M. Fromkin, *Identity Cards and Identity Romanticism* (November 30, 2008). *Lessons from the identity trail: Anonymity, privacy and identity in a networked society*, New York: Oxford University Press, 2009; University of Miami Legal Studies Research Paper No. 2008-41, p. 21.

²⁶⁵ Fedtke, JM; (2007) *Identity Cards and Data Protection: Public Security Interests and Individual Freedom in Times of Crisis*. In: Holder, J and O'Connell, C, (eds.) *Current Legal Problems 2006 Volume 59*. (pp. 161-183). Oxford University Press, p. 165.

²⁶⁶ Of these, eight were representatives of public authorities, two were members of civil society organisations, three were academics, and 13 were from category 'other'.

Eleven out of the 26 stakeholders²⁶⁸ deemed more convenient, efficient and appropriate to limit access to the data stored in a possible European ID card to the authorities which had been in charge of issuing the said card. Two stakeholders considered that the data stored in the possible European ID card should be accessible also by third countries outside Europe in order to easily identify people²⁶⁹. The remaining stakeholders replied very vaguely, acknowledging the importance of granting access to national authorities, but did not feel confident giving a complete answer in this respect. Amongst others, some of these remaining stakeholders mentioned that – if a European ID card is introduced – the EU should set clear guidelines to be followed by the Member States also in relation to the access to, management and administration of the cards²⁷⁰.

The desk research revealed that accessibility is an important aspect, which however cannot be seen in isolation from privacy and security issues. In other words, it is important to strike a balance between allowing access to data and protecting the privacy and security of the card holders' personal data. To this end the following points could be considered²⁷¹:

- Amount of accessible data: the data stored should allow for the functionalities that the ID card was created for to be effective. However, it should be considered whether or not the data should be stored on the card directly or in a database.
- Control: the category of persons/groups having access should be clearly defined and access should be monitored including by the card holders themselves to avoid uncontrolled access to and collection of data.

These aspects are also touched upon under Section 5.1.2 (Legal Framework) of this report.

Potential security risks

Input on the potential security risks of having a common European ID card was received from 30 stakeholders²⁷², showing a strong stakeholder interest in this respect, despite the overall opinion on the added value of the European identity document. Twelve stakeholders²⁷³ who expressed doubts about the EU added value of a European ID card were unable to address the relevant interview questions.

Twenty-nine stakeholders²⁷⁴ underlined the constraints and difficulties in the implementation of this project related to the lack of harmonisation and inconsistent implementation of security, privacy and data protection issues across Member States. In this respect, four stakeholders²⁷⁵ considered these risks as very similar to the ones

²⁶⁷ Of these, one was a representative from a public authority, five were academics, and 10 were from the category 'other'.

²⁶⁸ Of these, four were representatives of public authorities, one was member of a civil society organisation, one was an academic, and five were from the category 'other'.

²⁶⁹ Of these, four were from the category 'other'.

²⁷⁰ Of these, two were representatives of a public authorities.

²⁷¹ Deswarte Y., Gambs S., 'A Proposal for a Privacy-preserving National Identity Card', Transactions on data privacy 3(2010), p. 255. and Poller A., Waldmann U., Vowé S., Türpe S., "Electronic Identity Cards for User Authentication—Promise and Practice", *IEEE Security & Privacy*, vol.10, no. 1, pp. 46-54, January/February 2012, doi:10.1109/MSP.2011.148.

²⁷² Of these, eight were representatives of public authorities, two were members of civil society organisations, four were academics, and 16 were from the category 'other'.

²⁷³ Of these, one was a representative from a public authority, four were academics, and seven were from the category 'other'.

²⁷⁴ Of these, eight were members of public authorities, two were members of civil society organisations, four were academics, and 15 were from the category 'other'.

²⁷⁵ Of these, two were representatives of public authorities, and two were from the category 'other'.

currently faced by European passports. Specifically, one stakeholder²⁷⁶ referred to fact that European passports could be easily forged as they are designed in the same way everywhere in Europe and are protected with the same security features.

A few stakeholders²⁷⁷ also referred to the importance of preventing access to and the use of data for advertising and marketing purposes by private companies.

Strong concerns were raised by six stakeholders²⁷⁸ in relation to the potential conflicts of competences between the EU and Member States on topics such as population control and sovereignty.

Additional concerns on the risks for transparency in the democratic processes were raised by five stakeholders²⁷⁹, in relation to access to voting and vote controls. In this respect, stakeholders referred to the importance of ensuring the transparency and secrecy of citizens' votes, as well as the secrecy of their democratic initiatives and participations.

Considering that there is no concrete initiative in place regarding the introduction of a European ID card, the desk research focused on the security features of comparable documents, such as the European passports or national ID cards. Based on the literature consulted²⁸⁰ it seems that security features, and in particular, prevention against falsification and the improved protection of document security, should be given paramount consideration while developing a European ID card.

In connection with the harmonisation of European passports, for example, the following security features were considered:

- introducing biometric identifiers, which could allow for the more reliable identification of the person to whom the document was issued and limiting the use of these biometric identifiers to the purpose they serve;
- creating a high-security storage medium with sufficient capacity to 'guarantee the integrity, authenticity and confidentiality of that data';
- setting up common quality requirements for facial image and fingerprints²⁸¹.

The research carried out for the purpose of Section 3 (Rationale behind the introduction of a European identity document), suggests that it might also be worth studying the Estonian experience, as the country is well-known in the international community for its expertise in cyber security. Electronic ID cards in the country are protected by a 2048-bit public key encryption and users are consistently asked to enter multiple codes while accessing the various e-services. To date no major data leaks have taken place in Estonia²⁸². It is also noted that Estonia has taken certain strategic decisions to ensure the security of the information contained on the eID card. For example, very little personal data are stored on

²⁷⁶ Representative of a public authority.

²⁷⁷ Of these, one was a representative from a public authority, one was an academic and two were from the category 'other'.

²⁷⁸ Of these, one was a representative of a public authority, one was an academic, and four were from the category 'other'.

²⁷⁹ Of these, two were academics, and three were from the category 'other'.

²⁸⁰ [European Commission, 'Summary of legislation - Integration of biometric features in passports and travel documents', Council regulation \(EC\) No 2252/2004 of 13 December 2004 on standards for security features and biometrics in passports and travel documents issued by Member States, OJ L 385, 29.12.2004, p.1.](#) and [Politico, 'EU's passport fraud 'epidemic' \(2016\).](#)

²⁸¹ [European Commission, 'Summary of legislation - Integration of biometric features in passports and travel documents'.](#)

²⁸² [R. Proskauer, 'e-IDs: the future of secure digital identification?', \(2014\).](#)

the eID card. The card is practically used as a key to access databases, instead of including a large amount of data on the card²⁸³.

Also while considering the adoption of a European ID card, due consideration should be given to the new data protection package, described under Section 4 of this report²⁸⁴ (European added value and purpose of a European identity document), which might adequately address some of the concerns about data protection.

6.2. Issuance and management of a European identity document

This sub-section covers the type of authorities that could be involved in the issuance and management of a European ID card on the basis of input provided by 27 stakeholders²⁸⁵. Fifteen stakeholders²⁸⁶ who expressed doubts about the EU added value of a European ID card could not address the relevant interview questions.

Twenty-two stakeholders²⁸⁷ deemed more convenient, efficient and appropriate to vest competence for the issuance of a European ID card in the same national administrative authorities competent to issue national ID cards. Four of them²⁸⁸ stated that should a European ID card be introduced, there would be a need for stronger cooperation across Europe, which could be made possible through harmonisation of issuance and management procedures. Only five stakeholders²⁸⁹ considered the possibility of issuing the European ID card at the EU level, through an ad hoc EU central authority, or European Police Office.

In the absence of literature dedicated to the European ID card, the desk research carried out looked into elements that were considered while introducing the European passports and aspects that are typically taken into account while deciding on the governance structure for the issuance of national IDs.

Regarding the first point, the literature revealed that competence for issuing European passports was left with the Member States. This might be due to the fact that instead of introducing a single European passport, replacing national ones, the EU decided to harmonise some security features of national passports and integrate some biometric identifiers therein²⁹⁰. This implies that national passports still have some Member State-specific characteristics, moreover while issuing them the national authorities rely on information contained in national databases.

The extent to which a European ID card will rely on national databases and the implications of this element on the issuing authority to be chosen is to be seen. The need for a single

²⁸³ [European Commission, 'eGovernment - Interoperability at local and regional level - Good Practice Case - eID in Estonia', \(2006\)](#), pp. 16 and 17.

²⁸⁴ The EU's data protection package was put forward in January 2012. The new rules will among others aim to ensure that citizens enjoy the same data protection rights across the EU. More information is available at: [European Commission website, 'Reform of EU data protection rules'](#).

²⁸⁵ Of these, eight were representatives of public authorities, two were members of civil society organisations, three were academics, and 14 were from the category 'others'.

²⁸⁶ Of these, one was a representative of a public authority, five were academics, and nine were from the category 'other'.

²⁸⁷ Of these, six were representatives of public authorities, three were academics, two were members of civil society organisations, and 11 were from the category 'other'.

²⁸⁸ Of these, one was a representative of a public authority, one was an academic, and two were from the category 'other'.

²⁸⁹ Of these, two were representatives of public authorities, and three were from the category 'other'.

²⁹⁰ [Council regulation \(EC\) No 2252/2004 of 13 December 2004 on standards for security features and biometrics in passports and travel documents issued by Member States, OJ L 385, 29.12.2004, p.1.](#)

European ID card, versus some other options, such as the introduction of some harmonisation measures with respect to national ID cards, is also to be considered.

Relevant literature²⁹¹ highlights some aspects that are typically taken into account while deciding on the issuing authorities' governance structures. Whilst these aspects have been pointed out in connection with national ID cards, they could be equally considered in connection with a European ID card:

- Customer convenience: the structure chosen should improve service levels for citizens; thus should allow for the fast issuance of documents in a way that reduces the risk of theft or other misuse. As opposed to central models where one central authority is in charge of the issuance of national ID cards, decentralised models, where such responsibility is divided between decentralised bodies, seem to allow for faster procedures and applicants could typically obtain the requested documents almost immediately.
- Existence of verification process: the structure should allow for the verification of the accuracy and security of information. As mentioned above, central processes tend to be slower; in turn they allow for more thorough verification, including the thorough verification of information contained in different databases.
- Costs: issuance processes come with both direct and indirect costs. These costs are typically higher in decentralised systems. Additional costs include for example those linked to the secure delivery of supplies to be used for the production of the requested documents.
- Quality control: quality control is a critical issue for secure documents. In decentralised systems it might be challenging to ensure that the same quality standards are used across the board. In a centralised system, quality control may become easier to manage.

6.3. Interplay of a European identity document with national identity documents

This sub-section maps the requirements for ensuring coherence between a European ID card and national ID cards on the basis of input provided by 26 stakeholders²⁹². Sixteen stakeholders²⁹³ who expressed doubts about the EU added value of a European ID card did not address the relevant interview questions.

For ten stakeholders²⁹⁴ the final aim would be the introduction of one European ID card, replacing national ID cards²⁹⁵. However, all these stakeholders considered this goal unreachable at the moment due to the high concerns that this would raise at the Member State level. For this reason, nine of these stakeholders²⁹⁶ envisaged a coexisting system of national and European ID cards, until the socio-economic circumstances become more favourable for the replacement of national ID cards with one sole European ID card.

²⁹¹ [Datacard Group, 'ID credential issuance: central vs. over-the-counter issuance', \(2007\).](#)

²⁹² Of these, four were members of public authorities, one was member of a civil society organisation, and seven were from the category 'other'.

²⁹³ Of these, three were academics, and five were from the category 'other'.

²⁹⁴ Of these, three were members of public authorities, and one was member of a civil society organisation.

²⁹⁵ It should be taken into consideration that this question was presented as a yes/no question. More precisely the stakeholders were asked to choose between the following options: to replace national ID cards with a European ID card or make it coexist with the European ID card.

²⁹⁶ Of these, three were members of public authorities.

Some stakeholders²⁹⁷ would prefer a system with both national and European ID cards in place. One of these stakeholders²⁹⁸ expressly recognised the potential confusion that could result from the existence of multiple ID cards. However, he noted that eliminating national ID cards might be a sensitive issue as such cards are part of the identity of EU citizens. Two stakeholders²⁹⁹ generally stated that obtaining a European ID card should be optional for citizens, and another stakeholder³⁰⁰ stated that the European ID card should be obtained by mobile citizens residing in Member States other than their Member States of origin.

There is no literature available on the relationship between national ID cards and a European ID card. As stated in Section 5.1.2 (Legal framework), interoperability might become an aspect to be addressed in case a European ID is introduced. If the European ID is introduced as a stand-alone card, as suggested by some stakeholders, it will need to become interoperable with some electronic identification systems. If an approach towards the further harmonisation of national ID cards is taken, the interoperability of the said documents will need to be enhanced.

6.4. The use of electronic identification technologies

This sub-section maps whether and to what extent the development of a European ID card could rely on electronic identification technologies. As described in Section 5.1.2 (Legal framework), with the evolution of technologies, the EU introduced various instruments aimed at enabling EU citizens to carry out cross-border interactions using electronic identification technologies. However, at the moment, the use of electronic identification tools is rarely, if ever, implemented to interact online with public administrations of other EU Member States or while exercising democratic participation rights at the EU level.

Within this context, 24 stakeholders³⁰¹ – including those in favour of and against the introduction of an electronic European ID card – recognised the importance of ensuring the implementation of electronic identification technologies at national level. The remaining 18 stakeholders³⁰² did not reply to the relevant interview questions.

Two of the 24 stakeholders³⁰³ further articulated that participation in elections is enhanced by allowing multiple forms of identification (e.g. acceptance of driving licences for voting), rather than restricting forms of acceptable identification documents. For this reason, in case of introduction of a European ID card, the inclusion of electronic features that facilitate EU citizens' participation in democratic life would need to be taken into account.

Similarly, seven stakeholders³⁰⁴ of the 15 stakeholders³⁰⁵ in favour of the introduction of a European ID card underlined the importance of matching the features of the European ID card with the evolution of electronic technologies, in order to improve and facilitate the response to the daily needs of EU citizens. One stakeholder³⁰⁶ of these seven further stated

²⁹⁷ Of these, three were representatives of public authorities, and one was an academic.

²⁹⁸ A representative of a public authority.

²⁹⁹ Of these, one was a representative of a public authority, and one was an academic.

³⁰⁰ A representative of a public authority.

³⁰¹ Of these, seven were representatives of public authorities, two were members of civil society organisations, four were academics, and 11 were from the category 'other'.

³⁰² Of these, two were representatives of public authorities, four were academics, and 12 were from the category 'other'.

³⁰³ Of these, one was an academic and one was from the category 'other'.

³⁰⁴ Of these, three were members of public authorities, and four were from the category 'other'.

³⁰⁵ Of these, six were members of public authorities, one was a representative of a civil society organisation, two were academics, and six were from the category 'others'.

³⁰⁶ An academic, who stated that the EU ID should be option for citizens.

that the application of electronic identification technologies should be kept to the minimum, due to the fact that electronic identification might prevent some less IT literate people from using it.

Two stakeholders³⁰⁷ out of the 27 stakeholders against the introduction of a European ID card³⁰⁸ raised concerns on the inclusion of electronic identification technologies in the European ID card, due to the fact that such tools are currently regulated differently across the EU.

The remaining 10 stakeholders³⁰⁹ of the 27 stakeholders against the introduction of a European ID card³¹⁰ also highlighted the importance of matching the features of the card with the evolution of electronic technologies, mostly at the national level, despite being against the introduction of a European ID card.

As highlighted by Section 3.1.2 (Types of national ID card) in a large majority of Member States, national ID cards allow for electronic functionalities. Moreover, the introduction of such ID cards seem to be a trend, driven amongst others by constant developments in the ICT sector and the adoption of EU legislative and policy developments promoting the use of electronic identification schemes. Thus the desk research seems to confirm the stakeholder views in that it suggests the necessity of integrating electronic identification technologies into a European ID card, should that be adopted.

³⁰⁷ Of these, one was an academic, and one was from the category 'other'.

³⁰⁸ Of these, three were members of public authorities, one was member of a civil society organisation, six were academics, and 17 were from the category 'other'.

³⁰⁹ Of these, two were representatives of public authorities, one was member of a civil society organisation, one was an academic, and six were from the category 'other'.

³¹⁰ Of these, three were members of public authorities, one was member of a civil society organisation, six were academics, and 17 were from the category 'other'.

7. RECOMMENDATIONS

This Study confirmed the existence of rules at the EU level which aim to ensure the participation of all EU citizens in EU level democratic processes. The implementation of these rules at the national level, however, has some shortcomings and thus EU citizens are not provided with equal footing everywhere in Europe. Especially those residing in a Member State other than their own face some difficulties while exercising their political rights deriving from EU law. By way of example, administrative difficulties linked to registration at European Parliament elections are one of the factors keeping non-national EU citizens away from the voting polls. Moreover, some rules governing the ECI are too complicated, which might prevent EU citizens from fully exercising their EU political rights. Past and current EU level initiatives linked to national ID cards have not aimed to enhance citizens' participation in democratic processes at the EU level.

This could suggest a need for EU action. It might thus be recommendable for the European Parliament to consider the extent to which a European ID card could offer a viable solution to these issues.

While doing that it is recommended that the European Parliament considers the following aspects:

- Legal feasibility: the EU Treaties do not provide a legal basis for legislating in connection with ID cards with the sole purpose of enhancing citizens' participation in democratic processes at the EU level. Such legal basis is provided in connection with the enhancement of free movement rights. Any boundaries preventing citizens from moving around in Europe impede the full enjoyment of EU political rights, which are granted to all EU citizens regardless of where they reside within the EU.
- Political feasibility: Member States have different perceptions about the concept of national ID cards and have different traditions. These differences are likely to influence the standpoint of some actors while discussing the possible introduction of a European ID card.
- Legal framework and legal challenges: data protection should be a key consideration, should a European ID card be introduced. Such rules should protect the personal data of the card holder under all circumstances, including while being issued or used. Interoperability is an equally important matter, in particular if the European ID card is adopted as an addition to national ID cards, in which case it would need to be made interoperable with the electronic identification schemes of Member States where these are used. Should a European ID card follow the pattern of the European passports, thus allow for the harmonisation of certain features of national ID cards, interoperability of national ID cards will need to be enhanced.
- European added value and purpose: the stakeholders interviewed for this Study were doubtful about the EU added value of a European ID card and questioned the role that it might play in enhancing citizens' participation in democratic processes at the EU level. They called for a concrete initiative, which is backed up by sufficient evidence proving that a European ID card could facilitate the exercise of EU political rights and which enjoys the support of EU citizens.
- Practical aspects: while shaping the concept of a European ID card, the European Parliament is recommended to decide on some features of the said document. These features could be the:
 - amount and type of data stored on a European ID card;
 - access to the data stored on a European ID card;
 - authority in charge of issuing a European ID card;

- the relationship between a European ID card and national ID cards;
- the advantages that the use of electronic identification technologies in a European ID card could offer.

The introduction of a European ID card could be seen as one of the options for the EU to consider alongside alternative measures such as the potential harmonisation of national ID cards.

ANNEX

Stakeholders contacted

Type of stakeholder	Public authorities	Civil Society	Academia	Others	Total
Type of right					
EU citizenship	29	5	12	77 ³¹¹	123
Municipal elections	-	2	2	2 ³¹²	6
Right of petition	1	-	2	-	3
Access to documents	3	-	-	-	3
ECI	1	3	-	-	4
Security features	6	1	6	7	20
Additional stakeholders	-	1	26	1	28
Total	40	12	48	87	187

Stakeholders interviewed

Type of stakeholder	Public authorities	Civil Society	Academia	Others	Total
Type of right					
EU citizenship	4	1	2	19	26
Municipal elections	-	-	1	-	1
Right of petition	1	-	-	-	1
Access to documents	-	-	-	-	0
ECI	1	-	-	-	1
Security features	3	-	-	3 ³¹³	6
Additional stakeholders	-	1	5	1	7
Total	9	2	8	23	42

³¹¹ This included [EUDO Network](#) and the [UK National Council for Liberties](#).

³¹² This included [Pour La Solidarite](#) and [VoteWatch Europe](#).

³¹³ This included the European Union Agency for Network and Information Security ([ENISA](#)) and the European Research Cluster on the Internet of Things ([IERC](#)).

Stakeholders contacted but not interviewed³¹⁴

Type of stakeholder	Public authorities	Civil Society	Academia	Others	Total
Type of right					
EU citizenship	25	4	10	58	97
Municipal elections	-	2	1	2	5
Right of petition	-	-	2	-	2
Access to documents	3	-	-	-	3
ECI	-	3	-	-	3
Security features	3	1	6	4	14
Additional stakeholders	-	-	21	-	21
Total	31	10	40	64	145

³¹⁴ The reasons for not interviewing people were: lack of response to requests; lack of interest, thus rejection of request; undeliverable messages.

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