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Dear Mr Vardakastanis,

Thank you for your letter of 13 March. This is an unprecedented situation both in Europe as well as globally, and it puts a particular onus on us to support the more vulnerable in our society, including persons with disabilities.

The COVID-19 pandemic is indeed particularly harmful to those who are most vulnerable from a health point of view. Social isolation measures, the risk of infection for both care professionals and persons with disabilities, together with the limited availability of protective material create additional challenges.

I assure you of my utmost concern regarding the current situation of persons with disabilities. The EU's implementation of the UN Convention on the Rights of Persons with Disabilities is one of my responsibilities as Commissioner for Equality.

This is obviously relevant to a large range of policy areas. I have and will continue to underline to my Commissioner colleagues that specific actions responding to the crisis should take the needs of persons with disabilities into account. Your recommendations are of specific relevance in many cases.

To address persons with disabilities at the national level, my services will share your recommendations with the Member States' authorities responsible for disabilities. It may also be possible to address these issues in the framework of the European Semester and to encourage Member States to use the European Structural and Investment Funds (ESIF) to provide the necessary support.

The Commission has also already put in place a number of initiatives to extend and redirect the use of EU funds for this purpose. The Commission proposed a first COVID-19 Response Investment Initiative to promote investments by mobilising available cash reserves in the ESIF. Investment will rapidly reach more than €37 billion. This initiative includes two key elements: providing liquidity by allowing Member States to keep advance payments they would have normally needed to return this year (€8 billion), and adding significant flexibility to allow Member States to re-orient their funds swiftly towards COVID-19-related measures.

It is of particular importance that persons with disabilities or older persons should be able to benefit from quality, affordable, available and accessible social services. Measures should be taken to ensure that social distancing and self-isolation will not affect the continuity of these services for the most vulnerable. The Commission has already mobilised the European Social Fund and the Fund

for European Aid to the Most Deprived to provide support for the most vulnerable and to help maintain these services.

As underlined in a letter that I recently addressed together with Commissioners Kyriakides and Schmit to Member State ministers, no one requiring healthcare attention due to COVID-19 should be deprioritised on the basis of their disability or age. Persons with disabilities depend on carers and personal assistants, some at home, some in residential settings. Ensuring continuity with an increased health protective approach of those services should be a priority.

In times of crisis, everyone's needs must be considered and taken into account. The Commission is meeting twice weekly with EU Health Ministers to share information and find common solutions to reduce the stress on health and social systems.

Including persons with disabilities in the decision-planning is crucial and an obligation for both the EU and its Member States according to the UN Convention on the Rights of Persons with Disabilities provisions. However, it is up to the Member States to organise themselves in order to ensure and respect this obligation. I am asking my Commissioner colleagues in charge of those meetings to remind Member States of this obligation and I am also exploring with them the possibility of organising an exchange with organisations of persons with disabilities.

I shall share with you, in annex, more detailed information on other important measures undertaken by the Commission in relation to persons with disabilities.

I hope these various elements will give you a comprehensive overview of the different actions being undertaken by the Commission to deal with the COVID-19 crisis. I also hope that this overview will show how determined we are to take into account the specific needs of persons with disabilities and vulnerable people, keeping at heart our commitment to respect and implement the UN Convention on the Rights of Persons with Disabilities to work towards a Union of equality.

I thank you once again for your contribution.

Yours sincerely,

(e-signed)  
Helena Dalli

Mr Ioannis Vardakastanis  
President  
European Disability Forum

Annex:

Specific measures under disability inclusive response to COVID-19:

**- European Social Fund (ESF) and Fund for European Aid to the Most Deprived (FEAD)**

As regard the ESF support to the COVID-19 crisis, the actions taken by Member States across the Union aim at: supporting the healthcare system by purchasing the necessary healthcare equipment, including protective material for healthcare workers; recruiting additional staff for more and extended healthcare services; and communication and information to the public. In addition, the ESF can help in protecting employment levels and at the same time delay the spread of the virus. This includes in particular short-time work schemes or allowances for parents who cannot work, as they have to take care of their children, whose schools are now closed.

Moreover, both the ESF and the FEAD can help social workers and NGOs to adapt their work to this emergency. For instance, the FEAD can already be used to purchase material to help avoid the transmission of the virus (e.g. protective gloves, disinfection devices, protective shields) and any other measures needed for the proper delivery of assistance in a healthy and safe environment. Lastly, partner organisations active in the delivery of food or basic material assistance can benefit from these protective measures, either under the FEAD – in spite of its limited budget – or under the ESF.

The Commission is collecting information on measures undertaken by Member States to respond to the COVID-19 crisis, including, in some cases, on pensions and benefits for persons with disabilities.

**- European Semester**

The health and wellbeing of Europeans are top priority. We aim at strengthened income support and broad access to essential and social services for those in the most vulnerable situations, including persons with disabilities, in line with the principles of the European Pillar of Social Rights.

**- Accessibility of information**

Web accessibility allows persons with disabilities to perceive, understand, navigate and interact on the internet and to use mobile applications to access such information. Public sector websites in particular, are disseminating critical information, including quarantine and confinement rules and information about the support systems put in place to help all citizens during this public health emergency.

The Web Accessibility Directive (EU) 2016/2102 ensures that persons with disabilities have better access to the websites and mobile apps of public services. The Directive provides that public sector websites published after 23 September 2018 had to be accessible by 23 September 2019, all public sector websites have to be accessible by 23 September this year and public sector mobile apps by 23 June 2021.

During the COVID-19 crisis, the Commission continues working to ensure that the Directive is duly implemented, by checking transposition and facilitating cooperation among Member States. We are also starting preparations for the review of the Directive in the course of which we will consult the relevant stakeholders, including the European Disability Forum. EDF's feedback on how the Directive could contribute to a more inclusive crisis response for persons with disabilities is most welcome.

The revised Audio-visual Media Services Directive (AVMSD) considerably strengthens the provisions on accessibility. It obliges Member States to ensure that information on emergencies, such as today's pandemic, is available to the public through audio-visual media services in a manner that is accessible to persons with disabilities.

Given the exceptional circumstances, the European Regulators Group for Audio-visual Media Services (ERGA) has decided to help to accelerate the implementation of those provisions ahead of the September deadline. In order to ensure that as many Europeans as possible have access to critical information relating to the spread of COVID-19, ERGA will prepare a state-of-play report and develop a repository of best practices and recommendations.

Similarly, the EU's telecommunications legislation, specifically the Universal Service Directive (2002/22), requires that users with disabilities are ensured equivalence in access and choice regarding electronic communications services, including emergency services. The latter means that speaking or hearing impaired citizens should have the possibility to communicate with the Public Safety Answering Points through text messages and, where available, video messages. The universal service provisions also require ensuring the affordability of the basic communications services for all end-users. These provisions remain fully applicable during crises like the current one.

Deployment of remote telecare services, assistive technologies and digitally supported independent living solutions is actively pursued by EU programmes, such as Horizon 2020.

#### **- Health information systems**

With respect to health information systems, the essential is to have information on age and sex, and, if possible, on pre-existing conditions in order to have better information on the spread of pandemics and the impact on the most vulnerable members of the population. Receiving the information in accessible format is also very important, for vulnerable persons to also understand what they have to do to avoid spreading the virus. The focus for all Member States now should be on flattening the curve.

ESTAT already provides several datasets to monitor social indicators on EU citizens living with daily activity limitations, particularly the health problems of persons with disabilities. These EU statistics are usually broken down by sex, age and level of disability.

Support is given by all authorities (medical, local) and families/relatives/neighbours to all vulnerable groups without any discrimination. Former health conditions and/or disabilities must be reported by the patient when accessing medical services in order for he/she to benefit from the best care in an appropriate environment which takes into account his/her disability. This should be the case for all diseases, including in case of COVID-19.

#### **- Obligation of carriers and terminal managing bodies to pay particular attention to the needs of persons with disabilities and reduced mobility in case of transport disruptions**

EU regulations on air, rail and waterborne passenger rights oblige carriers to pay particular attention to the needs of persons with reduced mobility and anyone accompanying them when providing assistance in case of a cancellation or long delay by providing refreshments, meals and accommodation. In the bus and coach passenger rights regulation this is not an obligation, but there is a clear recommendation to bus and coach companies to make arrangements for such assistance.

On 18 March 2020, the Commission adopted interpretative guidelines on passenger rights in situations of mass cancellation of transport services because of the current crisis. These guidelines are relevant for all passengers, including for persons with disabilities and persons with reduced mobility.

#### **- Obligation of carriers and terminal managing bodies to assist passengers with disabilities and reduced mobility to enable them to travel by air, rail, waterborne, and bus and coach transport**

The Commission services have been made aware that certain carriers, which continue to operate their services despite COVID-19, deny or restrict special assistance to passengers with disabilities and reduced mobility, the provision of which would be necessary to enable them to travel. They argue that such steps are necessary in order to protect their staff and the passengers concerned,

because such assistance is in most cases impossible without contact between them, which entails a significant public health risk.

One of the most fundamental passenger rights is the right of persons with disabilities and reduced mobility to receive assistance free of charge from carriers and transport infrastructure managers to be able to use air, rail, waterborne and bus and coach transport in a manner comparable with other citizens. There is no provision in the EU passenger rights legislation which would exonerate carriers and transport infrastructure operators from their obligation to provide special assistance to passengers with disability or reduced mobility. On the other hand, however, there might be overriding health-related rules applicable in the context of COVID-19.

The Commission services are consulting public health experts (the Healthy Gateway experts who have already given guidance to the Commission with respect to the COVID-19 pandemic) to find out whether denial or restriction of the right to assistance by carriers and terminal-managing bodies is justified and proportionate on the basis of public health concerns.

#### **- EU Civil Protection Mechanism**

The Commission recognises that the COVID-19 pandemic, including the restrictions put in place by authorities, has significant and compounded impact on persons with disabilities across the globe. Over the past weeks, the EU has been working tirelessly, through the EU Civil Protection Mechanism, to support Member States' efforts to combat the pandemic. The Mechanism is a non-discriminatory, needs-based tool used to assist the most vulnerable when the scale of a disaster overwhelms the capabilities of an EU or third country. It operates on the basis of a request for assistance from the affected country to EU Member States and other participating states to the Mechanism. The Mechanism can also be used to provide consular support to EU Member States when its citizens are affected by a disaster and its application is aimed at assisting those most in need.

The Commission is also aware that the impact of the pandemic is even more dramatic in crisis-hit countries, where those most vulnerable need to rely on life-saving humanitarian aid. With respect to contexts where EU-funded humanitarian aid is being delivered, the Commission endeavours to continue these essential life-saving activities to the extent possible. It is working together with humanitarian partners on the ground to identify actions to mitigate the impact of the COVID-19 pandemic, including by ensuring as far as possible that the specific needs of persons with disabilities are adequately taken into account in these challenging circumstances.

The recommendations of the European Disability Forum will be useful in supporting a disability inclusive response to the pandemic.

#### **- Asylum seekers and migrants with disabilities**

Member States must take into account the special needs of vulnerable people seeking international protection (Reception Conditions Directive (2013/33/EU), Article 21) and in particular, all vulnerable groups, including asylum seekers with disabilities, the elderly or residents with existing health concerns.

From the perspective of integration or legal pathways, migrants with disabilities face additional barriers particularly in terms of language or if they have pre-existing trauma and other mental health issues.

The handling of the coronavirus is first and foremost about health response, which is not the primary focus of Home Affairs funding instruments. Therefore, Home Affairs funding programmes can only partially provide support under their mandate. The support is focusing on asylum seekers, refugees, persons enjoying temporary protection, legally staying third country nationals and those acquiring a legal status. Specific provisions are provided for vulnerable persons as set in the Regulation 516/2014 article 33.

With respect to funding, the Asylum, Migration and Integration Fund (AMIF) can support vulnerable groups, including support to health services. In the case of Greece, a comprehensive health support programme has been funded since 2017 under the AMIF and implemented by the National Public Health Organisation. The project aims to address the sanitary and psychosocial needs of people living in the open camps on the mainland and in the Reception and Identification Centres on the islands (hotspots), through the provision of medical staff, doctors and nurses. Amongst other things, specific care has been enabled in order to ensure the provision of proper care to people suffering from chronic illnesses or disabilities. The budget of the programme amounts to €37.5 million EU contribution.

In the current situation, the Commission is in constant communication with the Greek authorities regarding the national plan in place to deal with the management of the COVID-19 situation, concerning largely the migrants in the Reception and Identification centres on the islands and in the camps. The Commission stands ready to support the Greek authorities in operational terms in order to protect all the migrants, including those with disabilities, and prevent the spreading of the virus.

#### **- State aid**

The temporary rules that the Commission has enacted on state aid allow EU Member States to put measures in place to provide exceptional support to businesses across almost all sectors. However, the setting-up of such support measures, as well as the decision on whether to grant support to individual companies and to ensure a disability-inclusive response to COVID-19 remain the responsibility of each Member State.

#### **- Access to EU support**

The Commission would appreciate any data that the European Disability Forum may have on needs and best practices in ensuring the access of persons with disabilities to support in the EU's regions and per sector, for example access to personal protective equipment.

When proposing COVID-19 measures, the following should be taken into account:

- specific lines of financial support to NGOs that support vulnerable groups, as in the current situation many NGOs report that their fundraising flows have been halted;
- mechanisms to flag vulnerable cases to national authorities with disability-disaggregated data, in order to create a better overview of the dimension and type of support needed by vulnerable groups;
- more work to evaluate how informal help networks can be supported;
- steps to cover gaps identified in many Member States where national authorities are not able provide rapid support to persons with disabilities and older persons.