To:

Helena Dalli, Commissioner for Equality

CC:

Margaritis Schinas, Vice-President - Promoting our European Way of Life

Ylva Johansson, Commissioner for Home Affairs

Emmanuelle Grange, Head of Unit, Disability and Inclusion, Directorate-General for Employment, Social Affairs and Inclusion

Brussels, 21st October 2020

Ref. EDF-20-75-YV

Subject: Inclusion of persons with disabilities in migration policies

Dear Commissioner,

I am writing to you, as president of the European Disability Forum, in relation to the New Asylum and Migration Pact and upcoming regulations and policies on migration and asylum.

We welcome the recent consultations organised by the Directorate-General on Migration and Home Affairs which included EDF. We are nonetheless concerned that existing policies on asylum and migration, including the New Asylum and Migration Pact do not explicitly recognise the obligations that the European Union has under the UN Convention on the Rights of Persons with Disabilities, to protect the rights of persons with disabilities.

Migrants and asylum seekers with disabilities face the same risks as other refugees, however those are compounded by many other issues that need to be addressed by the EU and its Member States. Migrants and asylum seekers with disabilities find themselves at heightened risk of violence, discrimination, inaccessible facilities, inaccessible support services or disruption of these services, being confined to segregated structures or institutions. In some cases, pre-existing health conditions make them more at risk of developing serious illness or dying. They are at higher risk of being affected by COVID-19, as the virus spreads quickly in refugee camps, where people are living in overcrowded conditions, without access to adequate sanitation, food and water supplies.

As a state party to the UN Convention on the Rights of Persons with Disabilities (CRPD), both the EU and all its Member States are obliged to provide persons with
disabilities, including refugees with disabilities (article 11 CRPD), with the same range and quality of services as persons without disabilities.

In 2015, the UN Committee on the Rights of Persons with Disabilities recommended that the European Union mainstream disability in its migration and refugee policies. It also recommended that the EU issue guidelines to its agencies and Member States that restrictive detention of persons with disabilities in the context of migration and asylum seeking is not in line with the Convention. During the COVID-19 crisis, specific measures including collection of data disaggregated by disability, accessibility of sanitation and housing, and access to healthcare are fundamental for migrants with disabilities. Failure from the EU and Member States to ensure their rights of migrants with disabilities have had even more dramatic consequences since the beginning of the pandemic.

We are calling you, in light of your leadership on disability rights issues in the EU, to ensure that the implementation of the New Asylum and Migration Pact, and all other instruments on migration, includes asylum seekers and migrants with disabilities and fully aligns with the CRPD.

The European Commission is preparing several initiatives that must include asylum seekers and migrants with disabilities, in particular the Action plan on integration and inclusion of migrants and people of migrant backgrounds, the Asylum and Migration Management Regulation, the Asylum Procedures Regulation, the Regulation addressing situations of crisis and force majeure in the field of migration and asylum and the Migration Preparedness and Crisis Blueprint.

Asylum seekers and migrants with disabilities must also be included in the European Disability Rights Agenda that is currently being developed and in the work of the European Asylum Support Office (EASO). We are concerned by fact that no organisation of persons with disabilities is member of the Vulnerable Expert Network Advisory Group of EASO. We remain at your disposal to support the work of the European Commission on this matter.

Yours sincerely,

Ioannis VARDAKASTANIS
President
European Disability Forum
Annex: EDF’s input to the European Commission’s Pact on Migration and Asylum

About the European Disability Forum

The European Disability Forum (EDF) is an independent umbrella organisation of persons with disabilities that defends the interests of more than 100 million Europeans with disabilities. EDF is a unique platform which brings together representative organisations of persons with disabilities from across Europe, run by persons with disabilities and their families. EDF is a member of the Social Platform and Human Rights and Democracy Network and works closely to the European institutions, the Council of Europe and the United Nations.

We started our advocacy work on refugees with disabilities in 2015, in cooperation with our members and organisations such as Human Rights Watch, the European Economic and Social Committee, and the United Nations High Commissioner for Refugees.

We brought the issue to the European Commission and the European Parliament, advocating for all EU funding for refugees to also reach those with disabilities. During a mission in Greece with the EESC, we were able to evaluate the difficult situation of refugees with disabilities.

At the Conference of State Parties of the UN Convention on the Rights of Persons with Disabilities (CRPD), we called for the Global Compact on Refugees and the Global Compact on Migrants to include the voices of persons with disabilities.

We repeatedly called on the European Union (EU) and its Member States to take a human rights-based approach to conflict driven migration by ensuring we receive migrants with disabilities in dignified conditions. Our vision of Europe is one where human rights are upheld for all.¹

The EU and every one of its member states are committed to the UN Convention on the Rights of Persons with Disabilities and this creates human rights obligations on the EU and its members in relation to refugees and migrants with disabilities.

Situation of refugees and asylum seekers with disabilities

- UNHCR reports that refugees are at heightened risk as the COVID 19 virus spreads quickly in refugee camps, where people are living without access to sanitation, food and water supplies.

- The International Rescue Committee reports that in overcrowded refugee camps and detention centers, social distancing, washing your hands and isolation is nearly impossible and a public health disaster is real.

Refugees and asylum seekers with disabilities face the same risks as other refugees, however compounded by many other issues: finding themselves at heightened risk of violence, including sexual and domestic abuse, discrimination, inaccessible facilities, inaccessible support services or disruption of these services being disproportionately more likely to put their lives at risk, risk of being confined to segregated, institutional settings, and in some cases pre-existing health conditions which leave them more at risk of developing serious illness or dying.

EU legislation obliges member states to identify persons with disabilities in reception and detention centres, but there is a lack of formally defined procedures to identify and support persons with disabilities. Many are identified on an informal or ad hoc basis, or late in the procedure.

Lack of data disaggregated by disability, gender and age means that it is not possible to correctly assess the situation.

Lack of necessary support and assistance to persons with disabilities, in the reception centers, and during the asylum-seeking procedure.

Especially women and children with disabilities at heightened risk of violence, including sexual and domestic abuse.

As a state party to the UN Convention on the Rights of Persons with Disabilities (CRPD), both the EU and all its Member States are obliged to provide persons with disabilities, including refugees with disabilities with the same range and quality of support services, including health care as the ones available to persons without disabilities. This was recommended by the UN Committee on the Rights of Persons with Disabilities in 2015 to the EU.

Article 11 addresses the rights of persons with disabilities in situations of risk and humanitarian emergencies, stating that: “States Parties shall take, in accordance with their obligations under international law, including international humanitarian law and international human rights law, all necessary measures to ensure the protection and safety of persons with disabilities in situations of risk, including situations of armed conflict, humanitarian emergencies and the occurrence of natural disasters.”

Our main recommendations for the new Pact on Migration and Asylum

explicitly refer to the UN Convention on the Rights of Persons with Disabilities, its Article 11 on situations of risk and humanitarian emergencies, the Global Compacts on Refugees and Migration and follow up on the recommendation on refugees with disabilities received by the CRPD Committee;

collect disaggregated data by disability, gender and age of refugees and asylum seekers;
➢ identify refugees and asylum seekers with disabilities, chronic illnesses and their families when arriving to the European Union as to properly plan and manage their reception and to guarantee they receive the necessary support and assistance in the reception centers and during the asylum-seeking procedure;

➢ ensure that all mainstream support services to refugees and asylum seekers are accessible and inclusive to persons with disabilities and their families;

➢ ensure that refugees and asylum seekers with disabilities and chronic illnesses have access to inclusive education, health care, decent living conditions, accessible housing and support to live in the community;

➢ ensure that refugees and migrants with disabilities have access to integration programmes, language and digital competency training and to the necessary technical equipment, as to be able to make decisions for their own lives;

➢ policies on family reunification need to be accessible and inclusive to the needs of persons with disabilities, as its high requirements and short deadlines do not take into account that persons with disabilities need more time to access services and complete the process;

➢ include the rights of persons with disabilities in every element of the EUs approach to refugees and asylum seekers, in your responses to COVID-19 and initiatives towards a new Pact on Migration and Asylum;

➢ Meaningfully involve and consult with persons with disabilities and their representative organisations in designing, implementing and evaluating the New Pact on Migration and Asylum and any related initiatives, including on COVID-19.

**Contact person at EDF**

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