

MARIANNE THYSSEN
MEMBER OF THE EUROPEAN COMMISSION

Brussels, **14 AVR. 2015**
Ares (2015)

Dear Ms McGuinness,



Thank you for your letter of January 20, 2015 addressed to Vice President Timmermans, on the need to stop funding for institutional care of children and to promote instead community based care. The Commission fully agrees with your point of view.

Within the context of EU 2020, the priority on inclusive growth includes efforts at European and national level to reduce the social exclusion of persons with disabilities and other vulnerable groups. The aim is to promote their full participation in society and the economy through ensuring equal access to affordable, sustainable and high quality services, and in particular health care and putting in place effective anti-discrimination measures. The philosophy of independence and community engagement is also the underpinning concept of the *European disability strategy 2010-2020* which identifies areas where EU level action can complement initiatives by Member States in giving people with disabilities access to services enabling them to live in the community. Providing quality community-based services and removing barriers to equal and full participation are two of the objectives supported also through the use of the European Structural and Investment Funds.

With reference to your comments as regards the use of the ESI Funds, I would like to clarify the roles and responsibilities in ensuring compliance of implementation with approved operational programmes. According to the principle of shared management, the Commission responsibility lies in ensuring that the operational programmes comply with the EU regulatory framework and their strategies are in line with the EU framework strategies. Responsibility for implementation on the other hand lies completely with Member States.

Since 2009, the Commission, namely DGs EMPL, REGIO, JUST, SANCO and NEAR, has funded activities to promote the transition from institutional to community-based care and the use of Structural Funds to co-finance interventions for de-institutionalisation. A guide on strategies promoting the shift to community care was also drafted. It provides practical orientation to both national authorities and Commission officials for the planning and implementation of EU co-funded programmes that serve the interest of people in care. Moreover, a series of seminars have been organised in the Member States most concerned (HU, BG, RO, SK, SI, CZ, EE, LV, LT, PL) with a view to support the process.

As mentioned in your letter, the new regulatory framework on the ESI Funds provides further possibilities for enhancing the process of de-institutionalisation towards the objective of ensuring the right to independent living in line with Article 19 of the United Nations Convention on the Rights of Persons with Disabilities (UN CPRD). In the course of the negotiations of the 2014-2020 ESI Funds priorities Member States are invited to identify significant measures to reinforce the shift from institutional to community-based care. In particular through the ex-ante conditionality linked to the thematic objective on social inclusion and the explicit mention of de-institutionalisation in the ESF Regulation (Article 8 on non - discrimination).

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The results of this policy change are being monitored and will be reported on at the planned mid-term review of the ESI Funds programmes.

The Commission and Member State authorities must assume their responsibilities and ensure that objectives are reached. Other stakeholders, such as users' organisations, NGOs or service providers can help in many ways to prevent investments which would be contrary to the CRPD, including through warning the national and European authorities of risks. Preventive and possible corrective steps can help to ensure that national authorities towards a more prudent approach to investments in the provision of care to children, persons with disabilities and elderly people.

As regards the specific case of children, in the 2013 Commission recommendation on *Investing in children: breaking the cycle of disadvantage*, which received unanimous support from the Council, you will find the following text on page 8 of the document:

" Enhance family support and the quality of alternative settings: Strengthen child protection and social services in the field of prevention; help families develop parenting skills in a non-stigmatising way, whilst ensuring that children removed from parental care grow up in an environment that meets their needs:

- Ensure that poverty is never the only justification for removing a child from parental care; aim at enabling children to remain in or return to the care of their parents by, for example, tackling the family's material deprivation;*
- Ensure adequate gate-keeping to prevent children being placed in institutions and provide for regular reviews in the event of such placements;*
- Stop the expansion of institutional care settings for children without parental care; promote quality, community-based care and foster care within family settings instead, where children's voice is given due consideration;*
- Ensure that children without parental care have access to quality services (both mainstream and specific services) related to their health, education, employment, social assistance, security and housing situation, including during their transition to adulthood;*
- Provide appropriate support to children left behind when one or both parents migrate to another country to work, as well as to their replacement carers".*

Regarding external aid, the EU is guided by the principles and standards enshrined in the United Nations Guidelines for the alternative care of children. For the well-being and protection of children, efforts should primarily be directed to enabling the child to remain in or return to the care of his/her parents or close family member rather than being placed in institutions. However, while the Commission subscribes to this mid- to long-term objective, the residential care of children may be necessary in the short-term as a temporary measure, in case of emergency situations, or in cases of immediate need for protection and when no other form of alternative care is possible (informal, formal, kinship or foster care, family-like placement). In parallel, this has to be accompanied by efforts for the prevention of the separation of children from their parents, which is often due to poverty, disability, discrimination or conflict.

Yours sincerely,



Marianne Thyssen