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**Analysis of the transposition of Directive 2000/78/EC in the domestic  
legislation of the Republic of Cyprus and implementation**

The transposition of the above Directive in the legal order of the Republic was made by an amending (harmonising) Law of 2004 (L. 57(I)/2004), which amended the pre-existing Persons with Disabilities Law of 2000(L. 127(I)/2000). An extensive analysis of this Law, as amended, has been set out in the book "The legal and social position of persons with disability in the new legal order of the Republic of Cyprus as a member State of the European Union. Equal treatment – Social policy", which was issued by me, at pages 122-137. Please find enclosed the said pages.

We would like to formulate here, that we do not consider that the above transposition amounts to a correct harmonisation. The reason for that is the wording and effect of the provisions of article 9 of the Law, which provide that all the principles (provisions) of articles 4-8 of the Law, including article 5 providing for the introduction of schemes, incentives and measures for the employment and imposing obligations on the employers to afford facilities (accommodation) to employees with disability, do not have any force unless they be enacted by any other law or regulations. To the same effect are the provisions of article 5 itself, as it is explained in the above enclosed pages of the book. We do not think that such legislation, in the sense of transposition, achieves the result pursued by the specific EU Directive. I enclose the aforementioned book and we refer especially and as a supplement to the above, to pages 10-19, 60-63, 64-67, 68-71, 76-79, 90-91 and 116-122. As to the same provisions of article 9 of the Law regarding the need of enacting new laws or regulations as far as certain provisions of articles 4-8 for non-discrimination are concerned, in the same book certain potential discriminations, views and criticism are set out, with which the Task Force and the Board are in full agreement.

Nevertheless, the new articles 9A-9F, which were added to the basic Law for Persons with Disabilities (Amending Law 57(I)/2004), introduced a potential effective system for monitoring and enforcing the non-discrimination principle, as it is analysed in the relevant pages of the book, which have been attached above. This protection and enforcement consists in summary of the right of the victims of discrimination in work due to disability to go to certain Courts, which were given jurisdiction for this purpose, and of the jurisdiction vested in

the Ombudsperson to examine and decide upon such complaints by the victims of such discriminations. The latter jurisdiction vested in the Ombudsperson includes the power of the Ombudsperson to issue an Order enforcing the employer or the person who committed such a prohibited by law or regulation discrimination or violation of human rights to comply with the Order within a prescribed period. This power was granted to the Ombudsperson by the Combating of Racial and Certain other Discriminations Law, which included discriminations against persons with disability who may benefit from such Order under article 14 of the said Law 42(I)/2004.

In the meantime, the Ombudsperson has examined and gave a final conclusion in a case of a complaint of a girl hard of hearing, who had been prevented from filing her application to take examinations to be accepted to the Nursing School of higher education. During the examination of the complaint the officers of the Ombudsperson's Office cooperated with our Confederation. The refusal of the Nursing School was based on a term for entrance which prohibited persons with specific disabilities, among which hard of hearing, to enter the School. The reasons given for that were, first, that the specific disability created deficiency in the attendance of school and secondly, that a person with the specific disability would be prevented from being employed after he/she graduates. According to the conclusion of the Ombudsperson, the first reason given contravenes the human right to education whereas the second one constitutes an indirect discrimination in work on the ground of disability.

The jurisdiction and powers vested in the Courts by the Persons with Disability Law, as it was amended in 2004, have not been tested yet. Our Task Force is currently in the process to gather complaints from victims of discriminations on the ground of disability both regarding employment and occupation and more comprehensively as to violation of human rights. Such complaints will be sent to you later. In parallel, we are setting up a legal advisory body for a first examination and advice on such complaints.

Finally, we would like to reiterate once again, that the positions and views of our Task Force as well as the transposition of the employment Directive and effectiveness of the relevant domestic legislation, which was based on that Directive, are reflected and set out in detail in the aforementioned book which is hereby attached, in combined with this analysis report.

Mikis Florentzos,  
President.