



The voice of blind and partially sighted people in Europe

To the President of the Republic of Croatia
By e-mail: tajnistvo@predsjednik.hr

Paris, December 27, 2021

Dear President Milanović,

The European Blind Union, the umbrella organization representing 30 million blind and partially sighted people, with a membership of 41 national organizations in Europe, has received a request for support from the Croatian Blind Union (Hrvatski Savez Slijepih) concerning the draft new Social Welfare Act. The new legislation is introducing means testing for the entitlement of persons with disabilities to receive a disability allowance. This means that persons with disabilities in employment would lose their right to benefit from financial support meant to compensate the additional costs related to their disability.

Furthermore, the Croatian Blind Union informed us that, together with other twelve representative organizations of persons with disabilities, they have sent to the Croatian Minister of Labour an open letter, which has remained without response.

Apparently, there has been no consultation of representative organizations of persons with disabilities concerning the draft new law. Regarding this, we would like to draw your attention to article 4 (3) of the UN Convention on the Rights of Persons with Disabilities (UNCRPD), ratified by Croatia in 2007. The article states “In the development and implementation of legislation and policies to implement the present Convention, and in other decision-making processes concerning issues relating to persons with disabilities, State Parties shall closely consult with and actively involve persons with disabilities, including children with disabilities, through their representative organizations.”

We consider that the failure to consult the Croatian Blind Union in the preparation of the draft law and a clear infringement of the UNCRPD.

With regard to the content, we would like to point out that the suppression of the disability allowance for persons with disabilities who are engaged in employment is also a clear infringement of the UNCRPD, as we intend to demonstrate hereafter:

1. Article 27 (1) of the UNCRPD states that States Parties recognize the right of persons with disabilities to work on an equal basis with others; this includes the right to the opportunity to gain a living by work freely chosen or accepted in a labour market and work environment that is open, inclusive and accessible to persons with disabilities. The right to work is a fundamental right, essential for realizing other human rights and forms an inseparable and inherent part of human dignity.
2. Article 4(2) of the UNCRPD requires that States Parties take measures to the maximum of their available resources regarding economic, social and cultural rights and, where needed, within a framework of international cooperation, with a view to achieving progressively the full realization of those rights. The principal general obligation of States Parties therefore is to ensure the progressive realization of the right to work. States Parties are to take, within a reasonably short time after the Convention's entry into force for the State Party concerned, deliberate, concrete and targeted measures towards the full realization of the right to work and employment.
3. Article 4(1) of the UNCRPD sets out obligations to *respect*, *protect* and *fulfil* the right of all persons with disabilities to work. In turn, the obligation to fulfil contains obligations to *facilitate*, *provide* and *promote*. The obligation to respect is contained in paragraph (d) wherein the State Party is to refrain from engaging in acts or practices that are inconsistent with the Convention.
4. Article 4(4) of the UNCRPD provides that retrogressive measures taken in relation to the right to work are not permissible. If any deliberately retrogressive measures are taken, the State Party has the burden of proving that they have been introduced after the most careful consideration of all alternatives and that they are duly justified by reference to the totality of the rights provided for in the

Convention in the context of the full use of the State Party's maximum available resources. As a consequence, States Parties should take immediate measures to remove barriers in laws, policies and programmes that associate disability with "inability to work". In particular, measures to assess, or classify disability status should not be based on, or lead to, limitations of the right to work for persons with disabilities, nor should a person's decision to take up work be seen as contradicting their disability assessment or put into question their right to disability allowance or services from that point onwards.

5. Commenting on article 5 of the Convention (General Comment No 6 adopted on 9 March 2018), the UN Committee on the Rights of persons with Disabilities sets out the immediate steps States Parties are required to undertake to achieve de facto equality and ensure non-discrimination on the grounds of disability in relation to the right to work and employment. In particular, to ensure the provision of reasonable accommodation as set out in article 5(3) and article 27(1)(i) and to achieve or accelerate de facto equality in work and employment through specific measures pursuant to article 5(4) States Parties should, inter alia, ensure that persons with disabilities are paid no less than the minimum wage and do not lose the benefit of disability allowances when they start work, or on the basis of the income of their spouse or household family members.
6. Moreover, equal and effective access to benefits and entitlements relating to, or interacting with work, including retirement and unemployment benefits should be ensured. The same is true of benefits that respond to the specific barriers faced by persons with disabilities, which are essential components of equal and effective access, and of effective measures that cover the additional expenses linked to disability, including those related to work and finding work.
7. Disability-related social protection plays a key role to enable persons with disabilities to realize their right to work. Disability-related social protection must not be limited to benefits solely based on means-tests, such as disability benefits only available for persons with disabilities in poverty. These create a disincentive to work, and in cases where they are tied to health benefits or other essential supports, can make pursuing work unfeasible. Social protection

should compensate for the lack of work-related income and complement labour rights.

The current legislative draft, which in our opinion appears discriminatory, would – if adopted – have a severe negative impact on the lives of the persons concerned:

- The dignity of employed persons with disabilities would be radically threatened and with it, the whole system of morality, founded upon respect for other human beings and their lives.
- Persons with disabilities in employment would no longer have sufficient resources to meet their basic living needs and cover the increased cost of living caused by disability.
- It would contribute to the isolation, marginalization and exclusion of persons with disabilities from society and the labour market and would violate equalization of opportunities and deepen disparities.
- It would further contribute to increasing the poverty of persons with disabilities. In its Concluding Observation no. 44 to the Croatian government in connection with its Initial Report, the UNCRPD Committee recommends that "poverty reduction programmes be strengthened" and that "benefits aimed at alleviating increased costs arising from disability should be based on an assessment of the individual's support needs and should disregard any financial assets test".
- All the progress that has been made in terms of promoting the employment of persons with disabilities, including them into the labour market and their inclusion in society would be questioned.

On the basis of the above observations, EBU would like to propose to the Croatian authorities and Parliament to withdraw the articles of the new Social Welfare Act which provide for the means test of income for the entitlement to disability allowance of persons with disabilities in employment belonging to the IV grade of disability, including blind and severely visually impaired people.

Of course, we do not intend to interfere with the decision-making process of your national governing institutions, but we are confident that you will take in positive and constructive consideration our observations and respectful proposal.

Yours faithfully,



Rodolfo Cattani
President

Copied: Mr Vorin Peric, President of the Croatian Blind Union
c/o Ms Ines Hlevnjak, Coordinator for International Cooperation

European Blind Union
6 rue Gager-Gabillot, 75015 Paris, FRANCE
Tel: +33 1 88 61 06 60
Email: ebusecretariat@euroblind.org
www.euroblind.org
Registered non-profit organisation N° 105073 P