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Vujačić: The state does not take all necessary measures to ensure higher level of respect for the rights of persons with disabilities

In an interview between the Union of the Blind of Montenegro and the Executive Director of the Association of Youth with Disabilities, Marina Vujačić, she told us that the state does not take all necessary measures to ensure higher level of guarantees and respect for the rights of persons with disabilities and enable their adequate representation in governing bodies and at levels of decision-making.

How do You assess the current position regarding the participation of persons with disabilities in public and political life?

“The current level of participation of persons with disabilities in public and political life of Montenegro is not adequate for several reasons, including the legislative framework, and the level of respect for their rights in practice. This applies to the right of persons with disabilities to vote, while the right to stand as a candidate has not been mentioned enough. Also, the right to participation in public life implies that persons with disabilities are underrepresented at levels of decision-making, regardless of the standards and obligations of the state.

In this respect, the state does not take all mandatory measures and activities to ensure higher level of guarantees and respect for the rights of persons with disabilities and enable their adequate representation in governing bodies and at levels of decision-making.

Based on the information available to Your organization, do You think that the issues regarding the position of persons with disabilities are represented in political party programmes, and if they are, do You believe that representation is at an adequate level?

Issues regarding persons with disabilities and their rights are not sufficiently represented within the political party programmes, and even when they are,

the adequate approach to disability is mainly not included. That means that political parties see the issues regarding persons with disabilities as an issue concerning social policy, and not as a part of a wide scope of human rights, which is why the measures they propose relate only to issues of social policy and potential employment. Approach to disability used by political parties becomes clear through the following indicators: premises of political parties are mostly located in inaccessible environment, their programmes and campaigns are carried out in a way which does not provide accessibility for all categories of persons with disabilities, meaning that they do not use accessible and inclusive communication, information and means.

**Do the representative of system institutions recognize the significance of Your recommendations, and have specific measures been taken in order to confirm an essential and just declarative commitment to respect for human, or to be more specific, civil and political rights of persons with disabilities?**

There is a possibility that system institutions, to a certain extent, do recognize the significance of obligations and recommendations with regard to persons with disabilities, but the measures taken have been insufficient or inadequate. In this respect, it needs to be borne in mind that Montenegro ratified the United Nation Convention on the Rights of Persons with Disabilities in 2009, and that the guarantee level of human rights is not in line with standards contained in the Convention. Therefore, the practice and the application of guarantees cannot either follow the standards laid down in the Convention. Two standards related to the rights of persons with disabilities referred to in the Law on Election of Councilors and Members of Parliament have been declared unconstitutional by the Constitutional Court, and this confirms all that I have already mentioned. This is also symptomatic of the need to plan and carry out trainings on the human rights principles when it comes to persons with disabilities and getting acquainted with the principles of the Convention. This applies not only to the Parliament of Montenegro, the State Election Commission, municipal election commissions, polling boards, but also to all political parties and all institutions and election bodies.

They do not take sufficient measures and activities, but they often do not respond to initiatives sent, so it cannot be expected from them to act in line with initiatives. For example, we are still waiting for a response to the Initiative sent to the Municipal Election Commission of the Capital City – Podgorica, after our findings recorded during the observation of polling stations, voting materials and voting procedures in local elections held in October 2022 in Podgorica.

**When it comes to accessibility of polling stations and the voting procedure itself, i.e. the exercise of voting rights, some progress has been achieved. Which segments in this field should be further enhanced?**

“When we talk about accessibility, very little progress has been made in architectural practice. This refers to unimpeded access, accessible approach, entrance, moving and stay within polling stations, especially for wheelchair users. Some municipal election commissions have met accessibility requirements by designating new polling stations, but the election management bodies have done nothing to make previously designated polling stations accessible.

On the contrary, both municipal election commissions and polling boards have tried to shift responsibility to the owners of these facilities, especially in the case of public facilities and institutions. On the other hand, in the case of private facilities, they have tried to justify themselves by saying they could not order the owners to make the facilities accessible. If they could not do it, they had to choose accessible polling stations. This was their constitutional and legal obligation, because discrimination on the basis of disability refers equally to situations when there is no unimpeded access to any public facility and surface provided.

“Considering the above, there are final verdicts regarding discrimination lawsuits where discrimination has been proven and elimination of discrimination consequences has been ordered, i.e. it has been ordered to adapt facilities at issue. Certain progress has certainly been made with regard to setting up of polling stations – putting up a lower shelf in the voting booth, placing the ballot box at a lower height than a standard, providing two voting templates at each polling station and orientation carpet strips for visually impaired persons. Only some polling board have followed the recommendation on the possibility of signing an extract from the electoral register by facsimile, while the majority of them have required signing with fingerprint if a person was unable to sign by his/her own hand.”

**Can persons deprived of legal capacity exercise their voting rights on an equal basis with others?**

From the moment when the Initiative for returning of all persons to the electoral register was accepted (it was submitted by the Association of Youth with Disabilities of Montenegro), and from the beginning of a campaign supported by the OSCE Mission to Montenegro, we had no complaints related to impossibility to vote in elections. I believe that this practice should be followed by other countries, in particular those that have ratified the Convention, like Montenegro has.

**Due to persistent stereotyping, the situation is significantly different when we talk about the requirements that refer to PWDs for standing as a candidate and perform of public function. What are the most common stereotypes related to PWDs when it comes to standing as a candidate, i.e. performing public function?**

Persons with disabilities are deemed incapable of making decisions about their lives, let alone of participating in decision-making processes or making decisions on behalf of other citizens. Long-term application of different models of disability that approach to disability in different ways, including the charity model, has led to isolation and exclusion of persons with disabilities, a lack of their empowerment and a passive role they play under these circumstances, while everyone else has considered it was logical. That is why we still have the inaccessible Parliament’s Plenary Hall, and most of local parliaments are inaccessible too.

Perhaps it is necessary to exert pressure to change the current practice through candidacy, instead of waiting for candidacy requirements to be met. Without the activism of PWDs and their representative organizations, no significant progress concerning life of PWDs would have been made. Of course it is necessary to take other measures needed to adequately guarantee the passive suffrage, i.e. the right to stand as a candidate.

**So far, there has been no progress made in this field. Do You expect to have representative of persons with disabilities in the national parliament in the upcoming period, or perform any other public function, which would encourage a more active fight for respect for their rights?**

We have already have deputies with disabilities in the Parliament of Montenegro, but they did not publicly announce or present themselves in such a way. My guess they did not do it because they were afraid of stereotypes, or because of a personal non-acceptance of disability. That is why this issue has been mentioned only sporadically in the media or in some events, but not in other places where it is expected.

**In what way will Your organization will further proceed with advocating the creation of more effective public policies in this field, and what are Your key recommendation for representatives of political parties and system institutions in general?**

“We will certainly continue to submit proposals to amend the current legislation, carry out campaign on the right to participation in political and public life, monitor polling station accessibility, accessibility of voting material and voting procedures for persons with disabilities, but we will also carry out or initiate other activities aimed at improving the opportunities and rights of persons with disabilities to participate in public and political life. All that implies that we will continue providing free legal aid and representation for all persons who contact us or persons we find out that their above-mentioned rights have been violated. One of the most important reasons we have decided to do so is that this mechanisms has proven to be adequate and discrimination has been proven in each proceeding completed.

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