



Belarus: Brief on the Implementation of CRPD Commitments for Articles 3, 5, 24, 27 and General Comments Nos. 4 and 6

*Information for the Committee on the Rights of Persons with Disabilities
15th Pre-Session Working Group, September 2022*

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INTRODUCTION

The WORLD Policy Analysis Center, based at the University of California, Los Angeles, captures quantitative policy data on more than 2,000 indicators that matter to equality, health, and well-being. We strive to improve the quantity and quality of globally comparative data available to policymakers, citizens, national governments, intergovernmental organizations, civil society, and researchers for all 193 UN member states. We submit the following brief in advance of the 15th Pre-Sessional Working Group of the Committee on the Rights of Persons with Disabilities.

WORLD works to advance the global evidence base on national laws and policies that address social and environmental barriers to the full realization of the right to work and education for persons with disabilities. We are immensely fortunate to have had a 19-member steering committee of global leaders from DPOs, academia, intergovernmental organizations, civil society and philanthropy that guided us on the development of these measures. While WORLD is responsible for this submission and its content, we have benefited greatly from their advice.

The WORLD Policy Analysis Center's examination of Belarus' constitutional provisions and legislation vis à vis the commitments it has made through its ratification of the Convention is focused in the following areas:

- General Equality and Non-Discrimination
- Non-Discrimination in Work and Employment
- Reasonable Accommodation at Work
- Non-Discrimination in Education and Inclusive Education

We have collected and analyzed information on rights, laws, and policies in these areas for all 193 UN member states using a variety of sources, including primary national legal sources (e.g. original legislation and constitutions), national reports on policies and laws to the United Nations and official global and regional bodies, and secondary sources where clarification or corroboration of primary data is needed. Using a rigorous double-coding process, we create original databases which distill thousands of pages of text to highlight the essential features of each right, law, or policy. These original databases are the reference for the following brief. When drafting each brief, we perform a series of additional verifications to ensure the data provided reflects the current constitutional and legal landscape of a country.

In this report, we provide a summary of our constitutional and legislative findings as well as suggested questions for the Committee to ask Belarus, and topics we hope the Committee will address in its concluding observations. We hope the Committee will recommend that Belarus address any gaps in consultation and collaboration with relevant stakeholders, including civil society organizations. We also recognize that while having strong laws and policies in place are necessary first steps, implementation is also of paramount importance. In areas where we have commended Belarus for having provisions in place, we hope the Committee will recommend that Belarus work with stakeholders to overcome any obstacles in implementing these provisions.



SUMMARY OF FINDINGS AND RECOMMENDATIONS

General equality and non-discrimination (Articles 3, 5)

Based on our review of full-text national constitutions, Belarus broadly guarantees equality and non-discrimination to all persons. **However, the constitution does not explicitly guarantee equality or non-discrimination to persons with disabilities, who may face distinct barriers to accessing these rights.**

We hope the Committee will:

- Recommend in its concluding observations that Belarus **amend the constitution to add explicit guarantees of equality and non-discrimination regardless of disability status**, consistent with CRPD commitments. These guarantees could be added to article 22 of the constitution, which already guarantees equality and prohibits discrimination generally.

Non-discrimination in work and employment (Article 27)

Based on our review, Belarus broadly prohibits all forms of discrimination against workers with physical and mental disabilities. Laws further prohibit employers from failing to hire or promote an individual due to their disability status and prohibit employers from terminating a contract based on a person's disability status. We also identified legal provisions that guarantee equal pay and equal working conditions between workers with disabilities and workers without disabilities. **However, we found no provisions explicitly guaranteeing equal opportunities in employer-provided vocational training. We further did not identify any provisions that prohibit distinct forms of discrimination, including harassment, indirect discrimination, or retaliatory action when reporting disability-based discrimination.**

We hope the Committee will:

- In its list of issues, ask Belarus: Can Belarus demonstrate how Labor Code provisions prohibiting discrimination on the basis of disability in hiring, compensation, advancement and termination are being effectively enforced and monitored?
- In its list of issues, ask Belarus: Can Belarus demonstrate whether legal provisions exist that prohibit disability-based discrimination in other critical areas of working life, including vocational training, harassment, and indirect discrimination?
 - If these legal provisions do not exist, can Belarus specify if the current draft of the Act on the Rights of Persons with Disabilities and their Integration contains such protections?
- In its list of issues, ask Belarus: Can Belarus update the Committee on the current draft text and timeline for adoption of the Act on the Rights of Persons with Disabilities and their Integration?



- If the timeline for passage of this new act is not clear, recommend that the law be passed as soon as possible.
- In its list of issues, ask Belarus: Can Belarus specify whether and how workers are protected against retaliation if they seek redress for discriminatory action?
 - If no legislative protections exist, recommend Belarus amend its legislation to include protections against retaliation for reporting discrimination.

Reasonable accommodation at work (Articles 5, 27)

Based on our review of legislation, Belarus guarantees reasonable accommodation for workers with disabilities in the areas of working conditions, equipment, and the workplace's physical environment. We commend Belarus for taking this important step towards protecting the rights of workers with disabilities.

We hope the Committee will:

- In its list of issues, ask Belarus: Can Belarus demonstrate how reasonable accommodation provisions in the Law on Disability Prevention and Rehabilitation of Disabled Persons and the Law on Social Protection of Disabled Persons are being effectively enforced and monitored?
 - If Belarus cannot provide evidence it is fully enforcing these laws, recommend in its concluding observations that Belarus develop concrete steps to monitor and fully enforce the Law on Disability Prevention and Rehabilitation of Disabled Persons and the Law on Social Protection of Disabled Persons.

Non-discrimination in education and inclusive education (Article 24, Gen. Com No. 4)

While we recognize there may be other policies governing the equal educational opportunities based on disability, our systematic review of national legislation available through UNESCO and the ILO **did not identify any national legislative provisions that ensure non-discrimination in education to students with disabilities in Belarus.** We did find legal provisions from Belarus that promote the integration of students with disabilities into mainstream classes and schools, and outline specific supports and accommodations provided to students with disabilities.

We hope the Committee will:

- In its list of issues, ask Belarus: Can Belarus outline whether provisions exist that prohibit discrimination against students with disabilities, either in existing legislation or in the current draft of the Act on the Rights of Persons with Disabilities?
 - If Belarus does not have any such provisions in place, recommend in its concluding observations that Belarus pass and implement legislation that ensures equal education opportunities by guaranteeing non-discrimination in education for students with disabilities.



- In its list of issues, ask Belarus: Can Belarus demonstrate how integrated education is being implemented and enforced?
 - If Belarus is not fully ensuring integrated education for students with disabilities, recommend in its concluding observations that Belarus develop concrete steps towards full implementation of these provisions.

DETAIL

While the following review is systematic and rigorous, we recognize that there may be laws or policies governing these areas that we have not captured, including new legislation or policies that have not yet been published globally.

General equality and non-discrimination (Articles 3, 5)

Article 3 of The Convention states that:

The principles of the present Convention shall be:

(b) Non-discrimination;

Additionally, Article 5.1 calls on states parties to “recognize that all persons are equal before and under the law and are entitled without any discrimination to the equal protection and equal benefit of the law”, and Article 5.2 states that “States Parties shall prohibit all discrimination on the basis of disability and guarantee to persons with disabilities equal and effective legal protection against discrimination on all grounds.”

We reviewed full text constitutions for all 193 UN member states available from official government sources to determine whether the constitution explicitly guaranteed equality or non-discrimination on the basis of disability by prohibiting discrimination, guaranteeing equal rights, guaranteeing equality before the law, or guaranteeing overall equality or equal opportunities.

BELARUS' CONSTITUTIONAL PROVISIONS: MISSING EXPLICIT GUARANTEES OF EQUALITY AND NON-DISCRIMINATION FOR PERSONS WITH DISABILITIES

Based on our review of full-text national constitutions, Article 22 of the Constitution of Belarus broadly guarantees equality and non-discrimination to all persons.

Constitution of Belarus

Article 22. All shall be equal before the law and entitled without discrimination to equal protection of their rights and legitimate interests.



However, the constitution does not explicitly guarantee equality or non-discrimination to persons with disabilities, who may face distinct barriers to accessing these rights.

WHY CONSTITUTIONS MATTER

Constitutions state the values of a country, describe the rights of people living within the country, and profoundly influence norms and practice. In nearly all countries, constitutions take precedence over other sources of law—making them critical tools for delineating and implementing equal rights. New constitutions and new rights guaranteed in constitutions can be used to overturn discriminatory laws as well as to legislate non-discrimination guarantees. Moreover, constitutions can offer protection against policy and legal changes during periods of social and political shifts that may seek to undermine equal rights. For these reasons and others, as the foundational document setting out the rights of all human beings in a country, a constitution and the rights contained therein are essential to realizing equal rights.

[Work and employment \(Articles 27, 5, General Comm. No. 6\)](#)

Article 27 of the Convention calls on countries to advance equal work rights and prohibit disability-based discrimination “*with regard to all matters concerning all forms of employment*”. National laws and policies have an important role to play in achieving these goals and dismantling the discriminatory social and environmental barriers that maintain these disparities in employment. Laws and policies that advance equal work rights are critical.

[Non-discrimination in work and employment \(Article 27.1, General Comment 6\)](#)

Article 27.1 states that:

(...) States Parties shall safeguard and promote the realization of the right to work, including for those who acquire a disability during the course of employment, by taking appropriate steps, including through legislation, to, inter alia:

- (a) Prohibit discrimination on the basis of disability with regard to all matters concerning all forms of employment, including conditions of recruitment, hiring and employment, continuance of employment, career advancement (...)*
- (b) Protect the rights of persons with disabilities, on an equal basis with others, to just and favourable conditions of work, including equal opportunities and equal remuneration for work of equal value, (...) including protection from harassment, and the redress of grievances;*
- (d) Enable persons with disabilities to have effective access to general technical and vocational guidance programmes, placement services and vocational and continuing training;*



Per General Comment 6:

Article 5 (2) contains the legal requirements for achieving equality rights for persons with disabilities and persons associated with them. The obligations to prohibit all discrimination on the basis of disability includes persons with disabilities and their associates, e.g. parents of children with disabilities.

General Comment 6 further outlines that:

The duty to prohibit “all discrimination” includes all forms of discrimination. International human rights practice identifies four main forms of discrimination, which can occur individually or simultaneously:

- b. “Indirect discrimination” means that laws, policies or practices appear neutral at face value but have a disproportionate negative impact on a person with a disability. It occurs when an opportunity that appears accessible in reality excludes certain persons owing to the fact that their status does not allow them to benefit from the opportunity*

We systematically reviewed national labor codes, penal codes, equal opportunity, anti-discrimination legislation and other relevant legislation available through the International Labour Organization’s NATLEX database as of May 2018 for all 193 UN member states to determine whether national legislation prohibited discrimination on the basis of disability in employment. We examined legal protections across five areas covered by the Convention:

- Employment opportunities and hiring
- Equal remuneration for work of equal value
- Access to employer-provided vocational training at work
- Career advancement, including promotions and demotions
- Continuance of employment or terminations

We assessed whether there were explicit prohibitions from discrimination at work based on disability in each of these areas and whether legislation explicitly prohibited harassment based on disability. We further examined whether there were provisions that protected employees from retaliatory action for reporting disability discrimination. We also examined whether legislation prohibited both direct and indirect forms of discrimination.

BELARUS’ LEGISLATIVE PROVISIONS: MISSING SPECIFIC GUARANTEES OF DISABILITY-BASED NON-DISCRIMINATION AT WORK

Based on our review, Article 14 of the Labor Code broadly prohibits all forms of discrimination against workers with physical and mental disabilities. In Article 283, the law further prohibits employers from refusing to hire or promote an individual on the grounds of disability, and prohibits employers from



terminating a contract on the grounds of disability. Article 287 also guarantees equal pay and equal working conditions between employees with disabilities and employees without disabilities.

Labor Code

Статья 14. Запрещение дискриминации в сфере трудовых отношений

Дискриминация, то есть ограничение в трудовых правах или получение каких-либо преимуществ в зависимости от пола, расы, национального и социального происхождения, языка, религиозных или политических убеждений, участия или неучастия в профсоюзах или иных общественных объединениях, имущественного или служебного положения, возраста, места жительства, недостатков физического или психического характера, не препятствующих исполнению соответствующих трудовых обязанностей, иных обстоятельств, не связанных с деловыми качествами и не обусловленных спецификой трудовой функции работника, запрещается.

[...]

Статья 283. Реализация инвалидами права на труд

Инвалидам с учетом индивидуальных программ реабилитации инвалидов обеспечивается право работать у нанимателей с обычными условиями труда, а также в специализированных организациях, цехах и на участках.

Отказ в заключении трудового договора либо в продвижении по работе, расторжение трудового договора по инициативе нанимателя, перевод инвалида на другую работу без его согласия по мотивам инвалидности не допускаются, за исключением случаев, когда выполнение трудовых обязанностей противопоказано индивидуальной программой реабилитации инвалида.

[...]

Статья 287. Условия труда и отдыха инвалидов

Инвалидам при приеме на работу не устанавливается испытание.

Работающим инвалидам наниматель обязан создавать условия труда в соответствии с индивидуальными программами реабилитации инвалидов, в том числе путем организации их профессионального обучения на производстве, труда в надомных условиях.

Условия труда, в том числе оплата, режим рабочего времени, устанавливаются трудовым договором, коллективным договором, соглашением и не могут ухудшать положение или ограничивать права инвалидов по сравнению с другими работниками.

[...]

However, we found no provisions explicitly guaranteeing equal opportunities in employer-provided vocational training. We further did not identify any provisions that prohibit distinct forms of discrimination, including harassment, indirect discrimination, or retaliatory action when reporting disability-based discrimination.



Table 1: Does Belarus have legislative provisions in place explicitly guaranteeing non-discrimination in the following eight key areas of employment?

Legislative provision	Is the legislative provision in place?
Employment opportunities and hiring	Yes
Equal remuneration*	Yes
Employer-provided vocational training	No provisions found
Promotions and/or demotions	Yes
Terminations	Yes
Retaliatory action	No provisions found
Discriminatory harassment	No provisions found
Indirect discrimination	No provisions found

* While equal pay is guaranteed compared to employees without disabilities, the country does not guarantee equal pay for work of equal value as mandated in Art. 27.1 of the CRPD.

We also acknowledge that there is a new Act on the Rights of Persons with Disabilities and their Integration currently before the Belarussian parliament, the passing of which could help fill these gaps.

[Reasonable accommodation at work \(Articles 27.1, 5.3\)](#)

Article 27.1 of The Convention states that:

(...) States Parties shall safeguard and promote the realization of the right to work, including for those who acquire a disability during the course of employment, by taking appropriate steps, including through legislation, to, inter alia:

- (i) Ensure that reasonable accommodation is provided to persons with disabilities in the workplace”*

Additionally, Article 5.3 of the Convention States that *“in order to promote equality and eliminate discrimination, States Parties shall take all appropriate steps to ensure that reasonable accommodation is provided.”*

We analyzed whether countries legally guaranteed employer-provided reasonable accommodation. We did not consider guarantees of general workplace accessibility to be equivalent to guaranteeing reasonable accommodation to an individual worker. To assess legislative guarantees of reasonable accommodation, we systematically analyzed national labor codes, equal opportunity legislation, anti-discrimination legislation, and other relevant legislation available through the International Labour Organization’s NATLEX database for all 193 UN member states.



BELARUS: EXISTING GUARANTEE OF REASONABLE ACCOMMODATION FOR WORKERS WITH DISABILITIES

In our systematic review of national legislation, we found that the Law on Disability Prevention and Rehabilitation of Disabled Persons and the Law on Social Protection of Disabled Persons mandate different forms of reasonable accommodation for workers with disabilities, including adaptation of working conditions, equipment and the physical environment of the workplace.

Law on Disability Prevention and Rehabilitation of Disabled Persons:

Статья 31. Трудовая реабилитация инвалидов

Трудовая реабилитация инвалидов направлена на создание условий для труда инвалидов и осуществляется у нанимателей с обычными условиями труда, а также на специализированных рабочих местах, в специализированных организациях, цехах и на участках.

Специализированное рабочее место представляет собой рабочее место для работы на нем инвалида, условия труда на котором не противоречат индивидуальной программе реабилитации инвалида.

Наниматели обязаны создавать рабочие места для инвалидов, в том числе специализированные. Минимальное количество таких рабочих мест устанавливается местными исполнительными и распорядительными органами или специальными государственными программами. Затраты на создание таких рабочих мест свыше трех процентов от среднесписочной численности работников компенсируются за счет средств, направляемых на финансирование мероприятий по обеспечению занятости населения, и иных источников, не запрещенных законодательством Республики Беларусь. За счет этих средств также компенсируются затраты за приобретенное специализированное оборудование для создания рабочих мест для инвалидов.

Создание и сохранение специализированных рабочих мест для инвалидов в организациях, имущество которых находится в собственности общественных объединений инвалидов, и организациях, финансируемых за счет средств республиканского и (или) местных бюджетов, осуществляются за счет средств, направляемых на финансирование мероприятий по обеспечению занятости населения, и иных источников, не запрещенных законодательством Республики Беларусь.

Порядок финансирования и компенсации затрат на создание и сохранение рабочих мест для инвалидов определяется Советом Министров Республики Беларусь.

Для инвалидов, получивших инвалидность вследствие трудового увечья или профессионального заболевания, наниматель обязан создать рабочие места на данном производстве. Затраты на создание таких рабочих мест финансируются в порядке, определяемом Советом Министров Республики Беларусь.



Law on Social Protection of Disabled Persons:

Статья 31. Социальная поддержка инвалидов

Инвалидам гарантирована социальная поддержка со стороны государства в виде денежных выплат (пенсии, пособия, государственная адресная социальная помощь), обеспечения техническими средствами социальной реабилитации, включая кресла-коляски, протезно-ортопедические изделия, печатные издания со специальным шрифтом, звукоусиливающую аппаратуру и сигнализаторы, а также путем оказания социальных услуг и услуг жилищно-бытового обслуживания.

Условия и порядок пенсионного обеспечения инвалидов, обеспечения пособиями и предоставления государственной адресной социальной помощи определяются законодательными актами.

Обеспечение инвалидов техническими средствами социальной реабилитации осуществляется в соответствии с Государственным реестром (перечнем) технических средств социальной реабилитации в порядке, определяемом Советом Министров Республики Беларусь.

Местные Советы депутатов, исполнительные и распорядительные органы в пределах своей компетенции за счет средств местных бюджетов могут устанавливать инвалидам доплаты ко всем видам государственных пенсий, а также иные меры социальной поддержки инвалидов, принимать другие решения, направленные на удовлетворение специфических потребностей инвалидов и повышение их жизненного уровня.

Education (Article 24, General comment No. 4)

Article 24 of The Convention recognizes the right to education for persons with disabilities and outlines concrete steps that States Parties must take to ensure this right.

Non-discrimination in education (24.1, 24.2.b)

Article 24.1 of the Convention states that “*States Parties shall ensure an inclusive education system at all levels*”, and Article 24.2.b that “*Persons with disabilities can access an inclusive, quality and free primary education and secondary education on an equal basis with others in the communities in which they live*”.

We systematically reviewed education acts, child protection legislation, and anti-discrimination legislation available through UNESCO’s Observatory on the Right to Education Library and International Labour Organization’s NATLEX database for all 193 UN member states to determine whether national legislation guaranteed non-discrimination in education based on disability.



BELARUS' LEGISLATIVE PROVISIONS: MISSING GUARANTEES OF DISABILITY-BASED NON-DISCRIMINATION IN EDUCATION

While we recognize there may be other policies governing equal educational opportunities based on disability, **our systematic review of national legislation available through UNESCO and the ILO did not identify any national legislative provisions that ensure non-discrimination in education to students with disabilities in Belarus.**

We acknowledge that if passed, the new Act on the Rights of Persons with Disabilities and their Integration, particularly Art. 30 as currently drafted in the bill before parliament, may introduce non-discrimination provisions for students with disabilities.

Inclusive education (Article 24.1, 24.2, and General Comment No. 4)

Article 24.1 of the Convention states that “*States Parties shall ensure an inclusive education system at all levels*”. Article 24.2 of the Convention outlines, as a component of the right to education, that States Parties shall ensure that: “*Persons with disabilities receive the support required, within the general education system, to facilitate their effective education*”, and that “*Effective individualized support measures are provided in environments that maximize academic and social development, consistent with the goal of full inclusion.*”

In General Comment No. 4, “the Committee highlights the importance of recognizing the differences between exclusion, segregation, integration and inclusion” in educational institutions. Applying this distinction, we identified whether students with disabilities were explicitly guaranteed access to education, and further, if the legislation outlined integration into mainstream schools or only guaranteed education in separate schools. We also identified whether legislative provisions guaranteed individualized accommodations and supports to enable students with disabilities to succeed in school alongside their peers and advance inclusion.

To complete this legislative review, we systematically examined education acts, child protection laws, and anti-discrimination laws available through UNESCO’s Observatory on the Right to Education Library and International Labour Organization’s NATLEX database as of June 2018 for all 193 UN member states.

BELARUS' LEGISLATIVE PROVISIONS: GUARANTEES OF INTEGRATED EDUCATION AND ACCOMMODATIONS TO STUDENTS WITH DISABILITIES

Based on our systematic review of legislation, we find that the Education Code of Belarus outlines and promotes the integration of students with disabilities into mainstream classes and schools. This law also outlines specific supports and accommodations that students with disabilities may receive during their education. We commend Belarus for taking this important step towards ensuring the educational rights of students with disabilities.



Education Code of 2011

Статья 31. Основные права обучающихся

1. Обучающиеся, за исключением обучающихся, указанных в пунктах 3 и 4 настоящей статьи, в соответствии с настоящим Кодексом и иными актами законодательства имеют право на:

(...)

1.5. обучение по индивидуальному учебному плану в пределах содержания образовательной программы;

1.6. создание специальных условий для получения образования с учетом особенностей их психофизического развития;

(...)

Статья 260. Учреждения образования, реализующие образовательные программы специального образования

К учреждениям образования, реализующим образовательные программы специального образования, относятся:

учреждения специального образования;

иные учреждения образования, реализующие образовательные программы специального образования.

Статья 268. Общие требования к организации образовательного процесса при реализации образовательных программ специального образования

(...)

9. При организации интегрированного обучения и воспитания образовательный процесс при реализации образовательной программы специального образования на уровне дошкольного образования, образовательной программы специального образования на уровне дошкольного образования для лиц с интеллектуальной недостаточностью осуществляется в специальных группах, группах интегрированного обучения и воспитания, а при реализации образовательной программы специального образования на уровне общего среднего образования, образовательной программы специального образования на уровне общего среднего образования для лиц с интеллектуальной недостаточностью – в специальных классах, классах интегрированного обучения и воспитания.

Специальная группа (специальный класс) – группа (класс), в которой получают образование лица с особенностями психофизического развития.

Группа интегрированного обучения и воспитания (класс интегрированного обучения и воспитания) – группа (класс), в которой



получают образование лица с особенностями психофизического развития и лица, не относящиеся к лицам с особенностями психофизического развития.

(...)

18. Образовательный процесс при реализации образовательных программ специального образования для обучающихся с нарушениями зрения организуется с использованием тифлотехнических средств, специального оборудования, для незрячих – и на основе рельефно-точечной системы Брайля, для слабовидящих – и по учебным пособиям, издаваемым увеличенным шрифтом.

19. Образовательный процесс при реализации образовательных программ специального образования для обучающихся с нарушением слуха организуется с использованием звукоусиливающей аппаратуры коллективного и (или) индивидуального пользования, технических средств, обеспечивающих передачу учебного материала и другой информации на зрительной основе.

20. Образовательный процесс при реализации образовательных программ специального образования для обучающихся с нарушением слуха (неслышащие и слабослышащие с потерей слуха в пределах 70–90 децибел) организуется на белорусском или русском (письменная, устная, тактильная формы) и жестовом языках.

21. Образовательный процесс при реализации образовательных программ специального образования для обучающихся с тяжелыми нарушениями речи организуется на белорусском или русском языке.

22. Изучение иностранного языка обучающимися с нарушением слуха, которые обучаются во втором отделении специальной общеобразовательной школы (специальной общеобразовательной школы-интерната), и обучающимися с тяжелыми нарушениями речи осуществляется по их желанию.