

The Coalition Public Initial Report on the Republic of Belarus" Compliance with Its Obligations Adopted for the Purpose of Implementing the Convention on the Rights of Persons with Disabilities



ОФИС
ПО ПРАВАМ ЛЮДЕЙ
С ИНВАЛИДНОСТЬЮ



Общественное объединение
«Белорусское товарищество инвалидов по зрению»



Леванія
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Authoring Organisations:

1. Public Association *Belarusian Association of Social Workers* (PA BASW);
2. Public Association *Belarusian Association for Assistance to Disabled Children and Young Disabled Persons* (PA BAADC&YDP);
3. Public Association *Belarusian Society of Disabled Persons* (PA BSDP);
4. Public Association *Belarusian Society of the Deaf* (PA BSD);
5. Public Association *Belarusian Society of Sight-Disabled-Persons* (PA BSSDP);
6. Public Association *Republic's Association of Wheelchair Users* (PA RAWU);
7. Educational Private Institution *Levania Centre for Children's Development Issues*
8. Educational Human Rights Institution *Office for the Rights of Persons with Disabilities*.

Acronym and Abbreviation List

1. MCB means Medical Consultative Board;
2. WHO means World Health Organisation;
3. CC means Civil Code of the Republic of Belarus;
4. CPC means Civil Procedure Code of the Republic of Belarus;
5. DPIRP means Disabled Person's Individual Rehabilitation Programme;
6. CMF means Code of the Republic of Belarus on Marriage and Family;
7. CRPD means Convention on the Rights of Persons with Disabilities adopted by the UN General Assembly on the 13th of December 2006;
8. PwD means Persons with Disabilities;
9. MOI means Ministry of the Interior of the Republic of Belarus;
10. MoPH means Ministry of Public Health of the Republic of Belarus;
11. MREB means Medical Rehabilitation Expert Board;
12. ICoF means International Classification of Functioning;
13. RLF means Regulatory Legal Framework;
14. NGO means Non-Government Organisation;
15. NCLLR means National Centre of Legislation and Legal Research of the Republic of Belarus;
16. AoI means Authorities of the Interior;
17. UN means United Nations Organization;
18. PDP means Psychophysical Development Peculiarities;
19. CoEPoAI means Code of Execution Procedure on Administrative Infringements;
20. UNDP means United Nations Development Programme;
21. NSPC means National Science-to-Practice Centre;
22. MM means Mass Media;
23. TCPSC means Territorial Centre for Public Social Services;
24. PC means Penitentiary Code of the Republic of Belarus;
25. PC means Penal Code of the Republic of Belarus; and
26. CSP&R means Centre for Special Education and Rehabilitation.

Public Report's General Recommendations

1. Continue work on improvement of the national disability policies to maintain the pace adopted between 2016 and 2018, while developing a dialogue with the PwD and civil society association organisations and strengthening the human rights-related understanding of disability.
2. Develop the CRPD norm implementation in a more thorough way, while relying upon the Committee's General Comments and taking into account the recommendations adopted by the UN Committee on the Rights of Persons with Disabilities.
3. Set up a National Authorised Institution on protection of persons with disabilities of a supranational nature within the structures of the Administration of the President of the Republic of Belarus.
4. Develop and adopt an anti-discriminatory legislative norm framework enabling an overall and efficient protection of persons with disabilities against discrimination.
5. Commence immediately a revision of the legislative norms that contain discriminatory components.
6. Develop and begin implementing a cross-cutting national deinstitutionalisation programme. The national disability programmes shall be guided towards the priorities of independent living in the local communities, while transferring the decision-making and resource disposal priorities to the person in question.
7. Take real support measures to the PwD associations as equal disability policy participants, including the direct financial support measures.
8. Develop measures to diversify the government monopoly in the social service, rehabilitation and habilitation spheres towards a private proprietary form.
9. Revise the legal relations in the dispositive legal capacity area in respect of the health criteria. Harmonise the national dispositive and formal legal capacity legislation with the CRPD.
10. Sign and ratify the Optional Protocol to the Convention on the Rights of Persons with Disabilities.

ARTICLE 2. DEFINITIONS

Following the CRPD ratification and up to the time of this report`s drafting, our government has been using the term „инвалид,“ which literally means a disabled or handicapped person or even a cripple. While not agreeing to the opinion expressed by the organisations of persons with disabilities, the draft Law *On the Rights of Disabled Persons and Their Social Integration*¹ (referred to hereinafter as the „Draft Law on the Rights“) has preserved the use of this term, „инвалид.“

The latest revision of the Draft Law on the Rights has distorted the notion of „disability“ as compared to that enshrined in the CRPD. Firstly, disability has turned from a „factor interaction result“ into an interaction process. Secondly, the relation-relevant barriers have been excluded as a disability factor.

The term „discrimination“ has undergone a change. The term has been purged of ”... It includes all forms of discrimination, including denial of reasonable accommodation,“ thus considerably weakening the term`s designed meaning.

The draft Law *On the Rights of Disabled Persons and Their Social Integration* currently under development fails to define the status of the Belarusian sign language.

Recommendations:

1. Replacing the terminology in line with the contents of the CRPD term, i.e. „a person with disability“ instead of „a disabled person.“ Reducing various terms to a single disability ground.
2. Assigning a formal status to the sign language used by the Belarusian deaf people by enshrining its full name of the “Belarusian sign language” in the Legislative Act on the disabled persons` rights under development.
3. Transferring the terms enshrined in the CRPD into the Belarusian legislation with no modifications.

¹ http://pravo.by/document/?guid=3941&p0=2019087001&fbclid=IwAR0HqkB3vnUBoA2DMI_8MiKcnMHftPRw5pUSXVIjtY9R4StZkQYwBIC7OT8

ARTICLE 4. GENERAL OBLIGATIONS

The Republic of Belarus does not have an institute of human rights commissioner, or ombudsman, or, notably, ombudsman for the rights of persons with disabilities (under Art. 33 of the CRPD the member states are obliged to put in place special mechanisms to implement and monitor the rights of women, men and children with disability at the national level).

The existing Republic's Interdepartmental Council for Problems of Disabled Persons, with its twice-a-year meetings, is unable of performing the role of an efficient Ombudsman for the Rights of PwD.

The disability legislation, albeit an extensive one, contains a number of gaps, which prevent an implementation in full of all the rights of the PwD and fail to respect their dignity without discrimination.

Ensuring employment, implementing the right to education or participation in cultural life and leisure or recreation activities or going in for sports in rural areas for persons with disabilities are linked to certain difficulties and, in essence, are not accessible, especially if compared to the urban areas.

Within the CRPD implementation framework, our country has drafted and forwarded for debates to the Chamber of Representatives of the National Assembly of the Republic of Belarus a bill entitled: On the Rights of Disabled Persons and Their Social Integration. Whereas it includes several positive novelties, nonetheless, the draft Law contains some basic discrepancies as compared to the CRPD:

- the draft Law has lost / does not contain a discrimination regulation or protection mechanisms against discrimination;
- the draft Law has failed to include proposals from the PwD organisations on the legal, state-sponsored or public advocacy forms;
- the draft Law contains a multitude of references to other norms and branches of law, and does not have a strong *ad hoc* nature;
- the draft Law enshrines the elements of a „medical“ and paternalist approach to disability, as opposed to the CRPD's human rights based approach;
- a person with disability still remains under the draft Law in question a dependent service consumer; and

- the draft law fails to cover the issues of dispositive legal capacity and rights enjoyed by the persons with disability who have been deprived of their dispositive legal capacity².

At the time when this report is prepared the draft Law is being considered by the Chamber of Representatives of the National Assembly of the Republic of Belarus.

² <http://www.disright.org/ru/news/ofis-po-pravam-lyudey-s-invalidnostyu-predstavlyaem-komentarii-po-zakonu-o-pravah-invalidov-i>

ARTICLE 5. EQUALITY AND NON- DISCRIMINATION

The Belarusian legislation fails to contain a generic ban imposed on discrimination, discrimination definition or any legal protection mechanisms against discrimination. The term „discrimination“ is only mentioned in the labour laws context (Art. 14 of the Labour Code of the Republic of Belarus). There is no precedent-based judicial practice in place in respect of protection against discrimination, including that related to disability.

The suggestions filed by the organisations of persons with disabilities during the period preceding the report on the need to adopt a directly effective (*ad hoc*) law banning the PwD discrimination have been rejected by the state authorities.

Persons with mental and intellectual disorders constitute the most vulnerable PwD category. Due to their disease, they are limited in the number of rights and opportunities. For example, social service provision at home³ (by a social worker) is only available if not medically contraindicated; health resort rehabilitation is not available for them⁴ (with no alternative compensation being provided for); and quite often with no relatives or available auxiliary services being available at home they are under compulsion to move to the in-patient social security institutions (care homes), which leads to their isolation from the local communities.

Denial to provide insurance because of disability. The grounds are provided by the insurance company rules adopted with consent from the Ministry of Finance licensee.

The requirements applied in case of making deals with sightless members of the public should be featured by a single general civil nature, rather than cover a narrow banking sphere regulation. Today, the Civil Code puts an obligation on the persons with disabilities to have a representative entrusted with notarially certified authorities, which provides yet another obstacle on the way to getting banking services.

Monitoring of the cases reviewed by the Office for the Rights of Persons with Disabilities in 2019 shows that more than a half of them demonstrate the signs of discrimination, particularly so in the areas of labour, education, public health, justice, *et al.*

³ Resolution by the Ministry of Labour and Social Security of the Republic of Belarus and the Ministry of Public Health of the Republic of Belarus of 10 January 2013 No. 3 / 4.

⁴ Resolution by the Ministry of Public Health of the Republic of Belarus of 20 March 2008 No. 53 *On Approval of the „List of Medical Counter-Indications to Rehabilitation.“*

A discrimination ban is not present in the Law of the Republic of Belarus *On Mental Help Provision*, which regulates the status of persons with mental disorders; that said, the category of persons with mental diseases is a most unprotected one. The very fact of having such a diagnosis leads to drastic changes in the life of a human being and in the attitudes towards her or him from other persons or entities.

Art. 24, 2(a) of the CRPD prohibits exclusion of an individual from the general education system because of disability. A legitimised practice⁵ is still underway to exclude a numerous group of people from the general educational system on medical indications. The referenced Resolution lists the diagnoses with the relevant allowed and counter-indicated education forms and the educational institution types. In practical terms, it is in fact impossible to bypass the norm without changing a diagnosis.

Fact: *Child M., who has a moderate mental retardation, up to the 5th grade was educated within the integration system under the curriculum of Department I of a special school. Following the 5th grade, the Psychological Medical Pedagogical Board, PMPB, based on the moderate mental retardation, insisted on Department II of a special school, while ignoring a parent's reasoning that the child had coped up with the Department I curriculum.*

Many educational syllabi have some limitations imposed in relation to the trainees' success (for example, maximum grade 7 out of 10, rather than 10 out of 10) and access to the next educational stage.

For example, a student with peculiarities who has finished the secondary educational stage and had difficulties to absorb the curriculum, due to some formal procedures cannot be enrolled to a vocational school within the quota reserved for students with PDP, but rather has to enrol on equal terms with all the students.

It is provided for in the legislation that the educational path choice is made for children with PDP by their parents, while in reality the decisive role is played by the diagnosis and the PMPB opinion. In case parents do not agree with the PMPB decision, often an administrative resource of pressure is used against them.

Recommendations:

1. Define a clear legal mechanism for appealing against the actions taken by officials as applied to all the psychiatric assistance stages. Enact a norm that enables having a representative, when providing every stage of psychiatric assistance.

⁵ Resolution by the Ministry of Public Health of 22 December 2011 No. 128 *On Determining Medical Indications and Counter-Indications for Getting an Education.*

2. Abolition of discriminatory legal acts:

- a. Resolution by the Ministry of Public Health No. 128 *On Determining Medical Indications and Counter-Indications for Getting an Education*; and
- b. review of Resolution No. 233 *On Approval of Regulations on the Centre for Special Education and Rehabilitation*.

ARTICLE 6. WOMEN WITH DISABILITIES

The national policies lack consolidation of understanding by the legislators of the fact that women are subject to multiple discrimination (which is expressed in that the gender equality policy fails to cover the disability issues, while the PwD policy tends to forget the gender aspect). There are no mechanisms of protection against discrimination put in place.

Women often become victims of exploitation, violence and abuse (Art. 16), as well as cruel treatment (Art. 15). The latter includes, notably, forced abortions and sterilisation (which is present in the Belarusian legislation in respect of persons with no dispositive legal capacity).⁶

Paragraph 133 of the initial government report indicates that our country encourages the measures aimed at improvement of the situation and empowerment of disabled girls and women in the area of education and labour, and medical, social or legal assistance. The PA RAWU is not aware of any such encouragement norms available to girls or women with disabilities. The PwD category is not mentioned in the relevant state policies.

⁶ Art. 26–27 of the Law of the Republic of Belarus On Public Health.

ARTICLE 7. CHILDREN WITH DISABILITIES

Children with disabilities are subject to the danger of being discriminated simultaneously on several grounds, such as age, disability or gender. Stigmatisation prevents the families that bring up children with disabilities from being robustly integrated in all the processes of life.

Belarus still faces the momentous challenge of infrastructural and departmental responsibility for such children, which is typically shared among the ministries (of education, labour and social security, and public health). It leads to a lack of sufficient coordination in the formation of a single inclusive environment; besides, there is a high degree of uncertainty remaining in continuity and social support level, when formally transiting at 18 years of age from a child's status to an adult person's one.

The children with disabilities are restrained in terms of their access to out-of-school education or attending hobby or sports activity groups. Cultural events featuring children with intellectual or multiple disorders are often held within the framework of special forms. NGOs act as the basic organisers of such events for the persons who live in families.

Paragraph 164 of the initial government report states that, when providing medical assistance in hospitals to disabled children, one of the parents is enabled to stay with them at this healthcare institution. However, the benefit does not include provision to the parents of the conditions needed for extra care, such as a free bed or meals after the children reach 5 years of age. Thus, if a parent fails to pay for the bed or in case the hospital does not have any vacant beds, a representative of the disabled child in need of extra care has either to leave the health care institution or to use such makeshift objects as camp chairs, etc.

ARTICLE 8. AWARENESS- RAISING

The Belarusian society moves forward extremely slowly, as far as its attitudes towards the persons with disabilities are concerned.⁷ The visibility of such people in the public places is low and the pressure of negative stereotypes and myths is high. At the same time, positive changes can be observed in respect of inclusive education and visibility of colleagues and employees with disabilities.

As per Art. 4 of the Law *On Mass Media*, the major principles of MM activities are reliability and equality (dissemination of information, which is true to life, or equal rights granted to spread or receive mass information).

The MM allows some incorrect and stigmatising expressions and opinions about PwD, about people with mental disorders, as well as some expressions, which support non-inclusive patterns.⁸

Recommendations:

1. Enhance promotion and implementation of the Information Policies.⁹

⁷ http://www.disright.org/sites/default/files/source/05.11.2019/nacionalnyi_opros_2019_konvekt.pdf

⁸ <http://www.disright.org/ru/news/chto-belarusy-dumayut-o-lyudyah-s-invalidnostyu-glavnye-mysli-konferencii-4-maya>

⁹ Information strategies of the Republic of Belarus on a full legal inclusion of persons with disabilities in the society, Minsk, 2017/ www.docdroid.net/z502pmp/informatsionnaya-strategiya-for-web.pdf

ARTICLE 9. ACCESSIBILITY

The national regulatory legal framework predominantly defines the essence of physical accessibility or architectural accessibility, while being much less specific on information accessibility or on other access aspects. Alongside some positive examples, such as adoption by the Ministry of Construction and Architecture of its own Universal Design Concept or adoption by the Ministry of Labour and Social Security of its Methodological Recommendations on Ensuring Accessibility (Including Services), our country is dominated by a limited understanding of „barrier-free access“ prevailing over accessibility. Following the CRPD ratification, the government is attempting to approve a standard specification for architectural designs *Living Environment for Physically Weakened Persons*, which contains some obvious segregation hallmarks.

No buildings, or facilities, or public transportation vehicles are provided with informative Braille script signs.

Our country does not have a single regulated methodology to assess the environment or its facilities“ accessibility. It is extremely difficult to get an objective evaluation of how the environment accessibility is extended or how efficient any taken measures are.

Our country“s transport infrastructure does not correspond to the principles of transport route completeness and continuity, since such provisions are not included into the transport arrangement policy. A positive move is represented by the new service accessibility requirements in the Transportation Regulations adopted by the Ministry of Transport¹⁰ and expansion of the low floor vehicle fleet serving urban routes. The overland inter-city and international automotive transportation vehicles are not equipped with technical means to get wheelchair users in or out. The public transportation vehicles, such as buses, coaches, trams, trolleybuses or railway carriages, are not adapted for sightless or visually impaired people.

Railway transportation. The stations lack equipment to get a wheelchair use in or out of the carriage or move her or him inside it. There is no special service to provide help, when using the railway transportation. Belarus does have special-purpose carriages equipped with a hoist mechanism or special compartments, which are included in a train at request, but the relevant fare is much higher than that for a usual member of the public using a common compartment.

¹⁰ Automotive Passenger Transportation Regulations, 2018/
<http://www.pravo.by/document/?guid=12551&p0=C21800636&p1=1&p5=0>

Example: From time to time, schools order inter-city bus haulage to go on various tours meant for children and in such cases the children who use wheelchairs cannot take part in these events along other children.

Within the recent 5 years, the regulatory technical documents have expanded the environment accessibility requirements for persons with sight-related disabilities; however, they are implemented at a flabby rate, with just three facilities in the country being accessible for persons with visual disabilities (latest modifications date back to 2019): the National Minsk Airport, building of the Ministry of Labour and Social Security and the Brest Bus Station.

The government does not provide for any measures of financial, legal or institutional support being extended to enterprises or entities involved in R&D activities in the area of adaptive technologies for the persons with disabilities of all nosology.

Example: There were plans underway to begin in 2016 the production of electronic speaker informer units¹¹ to be remotely controlled for use by visually impaired disabled persons. In 2018 the remotely controlled electronic speaker / sound informer unit was developed and put into production by a non-state owned entity, rehabilitation institution for sight-related disabled people Centre of a Successful Person¹²

Our country has started the production of Braille script signs, tactile warnings and guiding sidewalk tiles. According to the monitoring data provided by the PA BSSDP's regional organisations, the operations to create an accessible environment for persons with visual disabilities are conducted without taking into account a comprehensive approach and a non-systemic way.

In 2018 the rehabilitation institution for sight-related disabled people *Centre of a Successful Person* developed and put into production the remotely controlled electronic speaker / sound informer unit, i.e. the *Steps towards the Sound* navigation system.¹³ With support from I.V. Petryshenka, Deputy Prime Minister of the Republic of Belarus, and top officials of the Ministry of Labour and Social Security, more than 300 facilities have been equipped with these the remotely controlled electronic speaker / sound informer units.

The events aimed at implementing the National Action Plan to fulfil in the Republic of Belarus the CRPD provisions on disabled persons' rights in 2020 (paragraph 10.2.1 of Section 10) include implementation of a pilot project to adapt Minsk's trolleybus routes Nos. 9 and 44 to suit the needs of persons with visual disabilities. The Republic's Interdepartmental Council for

¹¹ Resolution by the Council of Ministers of the Republic of Belarus of 30.01.2016 No. 73 (as edited on 18.10.2018) *On Approval of the 2016-2020 State Programme on Social Security and Public Employment Promotion* (Section 101).

¹² https://center1.by/?page_id=3052

¹³ https://center1.by/?page_id=3052

Disabled Persons“ Issues (minutes of 01.11.2019 No. 6-15/2pr-RMS) entrusted the Ministry of Transport and Communications, the Belarusian Railways and the executive authorities to assess the funding needs to finance the operations related to creating an accessible environment in the railway and bus station buildings in Minsk and in the regions for 2021.

The government does not provide for any measures of financial, legal or institutional support to the enterprises or entities involved in R&D activities in the sphere of adaptive technologies intended for persons with visual disabilities.

Para1a of Art. 29 of the Law of the Republic of Belarus *On Social Security of Disabled Persons in the Republic of Belarus* stipulates that the residential premises occupied by disabled persons or by families that include disabled persons should be adapted for access and use by the disabled persons. The funding obligation related to adaptation of such residential premises rests with the local authorities or other organisations. In practice, the legal norm is implemented in a problematic way. For decades people live under the conditions, when they are not in a position to leave their apartment. The situation is similar all over the country.¹⁴

There is a negative practice in place, when the government ignores the problem of private housing owners making illegal decisions on non-compliance with the accessibility requirements.¹⁵

Construction of inaccessible buildings is going on in violation of the laws in effect, also on decision by the Ministry of Construction and Architecture.¹⁶

The healthcare institutions are flooded by a total non-compliance with the accessibility requirements.¹⁷ *Example: a wheelchair user was receiving medical rehabilitation services at an*

¹⁴ <https://raik.by/novosti/menja-postojanno-vydergivali-iz-depressii-ne-davali-polnostju-rastvoritsja-v-temnote-i-bespomoshhnosti-istorija-zhizni-pavla-bylinovicha-iz-slucka/>
<https://raik.by/novosti/krutoj-mogilevskij-koljasochnik-sam-podnimaetsja-na-pjatyj-jetazh-varit-kofe-v-torgovom-centre-ne-noet>
<https://ex-press.by/rubrics/novosti-borisova/2018/11/12/very-v-chinovnikov-bolshe-net-dlya-28-letnego-borisovchanina-tyurmoj-stala-kvartira-v-kotoroj-on-zhivet-foto>
<https://raik.by/novosti/invalid-koljasochnik-neskolko-let-bezuspeshno-dobivalsja-ustanovki-podemnika-v-mozyre-teper-on-vybiraetsja-na-ulicu-cherez-okno/>

¹⁵ https://news.tut.by/society/590668.html?fbclid=IwAR0RBjhx0eE6XQmQkLCLhm_cRKuW3K8KWgSMJVxD_xAc_FdcV_0jvrO4 An example is provided by new residential houses in Brest’s Lutsкая Street, where the residents took a decision not to commission the electric hoists installed at every entrance. <https://www.b-g.by/society/postavte-pandus-myi-budem-s-nego-sduvat-pyilinki-v-breste-zhilcyi-protiv-podemnikov/> . <https://raik.by/novosti/vyjti-na-ulicu-missija-nevypolnima-tak-mogut-skazat-mnogie-koljasochniki-zhivushhie-v-bobrujske/>

¹⁶ At request from the PA RAWU filed to the State Standard Committee on violations committed, when building houses in Minsk District, an answer was received (letter of 17.03.2017 Re. No. 01-27/Yul-49) that the Ministry of Construction and Architecture had allowed to the relevant construction company MAPID, OJSC an exclusion from the effective technical regulatory framework TNPA in respect of paragraphs 5.1, 5.18 and 5.19, as well as authorised changes in section 8 of Belarusian Construction Standard 3.02.04-03 Residential Houses, when building the M464- Y1 series houses.

¹⁷ <https://ex-press.by/rubrics/novosti-borisova/2019/03/10/nedostupnyj-borisov>

administrative district centre. Because use of the hospital toilet was out of question, he had to go home to use one. In order to leave, he was to ask the medical staff for permission. He was not always allowed to go, then he used to leave without authorisation, because of which he was discharged from the in-clinic for breaking the regulations.¹⁸ The design rules¹⁹ provide for a norm of 6 square metres in respect of a sanitary room intended for wheelchair using disabled persons (whether a WC or a shower room).

The legislation of the Republic of Belarus on public procurement does not include any norms, which provide for mandatory accessibility requirements. Notably, when the government authorities or other organisations are engaged in procurement of transportation services or form a new vehicle fleet and/or make arrangements about special-purpose transport links at the period of significant cultural events, such as the Slavic Bazaar, Eurovision, etc., or sports events, such as European Games II, world championships, etc., no preference is made in favour of the transportation vehicles adapted for accessing by persons with disability.

Complaints filed by members of the PA BAADC&YDP give evidence of consistent refusals by the housing and utility entities and by the local authorities to equip residential premises with barrier-free environment elements (notably, with wheelchair ramps) in situations when due to the TRLF requirements these facilities are unfit for the creation of an overall barrier-free environment.

Example: “Equipping a front flight of the entrance hall with an elevating platform is impossible due to the provisions of several TRLFs, since it would reduce the minimum evacuation width of the staircase passage and create inconveniences for residents using the entrance.

Equipping a porch with a ramp does not run counter the TRLF requirements, but the applicant’s request is turned down, too, because sub-programme 4 „Barrier-Free Life-Sustaining Activity Environment for Disabled or Physically Weakened Persons” of the 2016-2020 State Programme on Social Security and Public Employment Promotion provides for an overall approach to creating the barrier-free environment conditions in the residential houses, where wheelchair users live”.²⁰

For persons with hearing-related disabilities no process design norms (PDN) have been elaborated to ensure housing accessibility, such as light indication intercoms at entrance doors.

¹⁸ <https://naviny.by/article/20190531/1559279968-nam-mstit-bolnica-mozyrya-otvetila-na-rolik-o-polzushchem-v-tualet>
Technical Code of Practice 45-3.02-101-2008 (*Buildings and Premises of Medical or Preventive Organisations: In-Patient Clinics*).

¹⁹ Technical Code of Practice 45-3.02-101-2008 (*Buildings and Premises of Medical or Preventive Organisations: In-Patient Clinics*).

²⁰ The applicant’s contact data and copies of the answers to the complaints sent by the state authorities are filed with the PA BAADC&YDP

No accessibility is provided at the radio-electronic diagnosis and research units of the healthcare institutions, e.g. in the form of a light indication instrument to warn about holding one's breath.

There is no system in place to train, upgrade training or to certify interpreters of the Belarusian sign language to provide interpretation services to the deaf people. Lack of services provided by a skilled interpreter of the Belarusian sign language disrupts access to the rights and freedoms and distorts the reliability and objective nature of how a deaf person perceives vitally important information and quality and its monitoring, when the interpretation service is provided, and a free choice of professional education or employment.

The state-owned electronic MM (e.g., TV) does not ensure for hearing-related disabled persons an access to information.

Recommendations:

1. Put in place a holistic approach, when creating an accessible environment for persons with disabilities, including the transport infrastructure, and ensure meeting unconditionally the requirements related to creating an accessible environment for the persons with disabilities by the facility owners, irrespective of the relevant proprietary form.
2. Regulate in the legislation rules for maintaining the environment accessibility elements in a functionally operative condition for all the proprietary forms.
3. A disabled person's individual rehabilitation programme (IRP) must be supplemented with a section on the need for creation of a barrier-free environment at the place of residence.
4. Determine a mechanism for providing an equivalent housing to the disabled persons, whose residential premises are not adapted for their living.
5. Entrust the local executive authorities or other state-owned entities, which have at the operational or economic control and management the residential premises that are unfit due to their technical characteristics for the creation of an overall barrier-free environment, with equipping the said facilities under the reasonable accommodation principles, before an equivalent housing is provided to the disabled persons.
6. Develop and approve the PDNs, which ensure accessibility to the entrance halls and the living premises occupied by hearing-related disabled persons (installation of light indication intercom systems at entrance doors), as well as the hospital diagnosis rooms.
7. Start training of interpreters of the Belarusian sign language at the first stage of higher education.
8. Approve the State Standard *STB Systems of Teletext, Teleguide, Subtitles and Data Transmission by the VHF Range Radio Broadcasting Stations*, which would legally bind all the TV and radio broadcasting entities.

ARTICLE 10. RIGHT TO LIFE

Lack of an efficient legal framework for getting a life-long medical assistance in the form of providing imported pharmaceutical products leads to incapacitation and deaths among the persons with disability (Phenyl Ketonuria or Spinal Muscular Atrophy).

ARTICLE 11. SITUATIONS OF RISK AND HUMANITARIAN EMERGENCIES

The authorities, who engage in the Republic of Belarus into the activities related to natural and anthropogenic emergency situation prevention and mitigation, civil defence and fire safety, are the emergency situation units.²¹

At present, all the above organisations are at their initial stage in terms of forming a holistic and systemic approach, as far as taking into account the disability issue under the situations of risk or humanitarian emergencies is concerned.

The situation is aggravated by lack of unhindered access or accessible environment in general or its individual elements, especially in the buildings and structures constructed way in the past (whether residential or non-residential, be it private or state-owned housing stock). A similar problem also affects the transport infrastructure: the above-ground transport vehicles are not fit for a free transportation in them or with their help of the persons with disability.

Recommendations:

1. Put in place the legislative conditions and ensure their implementation in terms of an unconditional compliance with the safety requirements in respect of the PwD, when constructing or commissioning any new infrastructure facilities.

²¹ Art. 1 of Law of the Republic of Belarus of 16 July 2009 No. 45-3 *On Emergency Situation Authorities and Units of the Republic of Belarus*.

ARTICLE 12. EQUAL RECOGNITION BEFORE THE LAW

People with intellectual or mental disorders are often considered dangerous to themselves and others, when they do not express agreement to or oppose medical treatment.

Art. 375 of the CPC stipulates that a case on bringing a citizen to the status of legal incapacity (due to a mental disorder, due to which she or he may not understand the meaning of her or his actions or control those) may be adjudged by the court of justice without her or his participation, if it finds the person's presence impossible because of her or his state of health.

As per the CC of the Republic of Belarus, bringing under the procedure in place a person with mental disorders into the legal incapacity status deprives her or him, in practical terms, of any rights: property disposal, entering into any deals, renting a flat, being hired to a job, getting married, making an abortion, going independently to court, etc. Since the Belarusian legislation only recognises a complete legal incapacity in respect of the persons with mental diseases or intellectual disorders, the Belarusian courts of justice do not review separately during their judicial proceedings the issues if the person is in a position to make independently decisions in any one of the above-mentioned spheres of life, while rather relying on medical data on the human being's health.

A citizen deprived of a dispositive legal capacity is not enabled to initiate a request on recognition of her or his legal capacity. As per Art. 376 of the Belarusian CPC, a case on reinstatement of a citizen's dispositive legal capacity may be initiated at the request of her or his guardian or any other legal representatives.

As per Art. 4 of the Law of the Republic of Belarus *On Citizens' Complaints*, any complaints in writing or in an electronic form in the name and on behalf of any legally incapable citizens shall be filed by their legitimate representatives: parents and/or guardians. Oral grievances by the legally incapable citizens during an audience in person shall be expounded by their legal representatives.

The persons who are acclaimed as legally incapable by a court of justice forfeit a number of political rights: the right to vote (Art. 4 of the Electoral Code of the Republic of Belarus), or **being political party members** (Art. 13 of the Law of the Republic of Belarus of 05.10.1994 No. 3266-XII *On Political Parties*), or being members of other civic organisations. Thus, despite the lack of any direct legislative prohibition, representatives of the Ministry of Justice have

repeatedly provided explanations that a legally incapable person **may not independently carry out the obligations of a public association member, which includes membership fee payments; consequently, with the recognition of dispositive legal incapacity her or his membership must cease.**

In practice, neither the citizens' opinion is taken into account, when they have their guardian appointed. The provisions of Art. 152 of the Code on Marriage and Family, under which in case of choosing a guardian or custodian the wish of the person who is in need of guardianship of custodianship, is declarative and not applied in practice.

An example of the fact of losing the dispositive legal capacity covering any relations, which preceded the relevant judicial ruling date, is also represented by termination of a power of attorney's effect following the recognition of the proxy giver as legally incapable (Art. 189 of the Civil Code of the Republic of Belarus).

Since 1 August 2020 the Belarusian legislation will introduce the limited disposable legal capacity concept in respect of people with mental diseases.

The legislation does not regulate in detail the exact procedure for appealing against the actions by psychiatry doctors, but the patients do have the right to appeal against any action or omissions by the healthcare organisation officials.²²

As per Art. 40 of the Law, a patient at a mental clinic is entitled to sending complaints in line with the laws in effect. At the same time, no clear procedure for such appeals is provided for. Due to a low legal culture and stigmatisation, many people with mental diseases do not appeal against the physicians' actions, because they either find it too complicated, or a hopeless undertaking, or are being scared of the doctors' repressions, including establishment of a graver diagnosis or prescription of undesirable medication, etc.

Example: Citizen D. who is deprived of his dispositive legal capacity, as well as lives separately from his guardian and cares for himself independently, who is of a working age and wants to find a job, is not enabled to initiate all on his own the process of reinstating his legal capacity status.

Recommendations:

1. Develop and approve the national road map to transform the existing framework for legal incapacitation and to harmonise it with the CRPD norms.
2. Harmonise all the norms present in the Belarusian legislation in relation to the persons with mental or intellectual disorders with the general CRPD norms.

²² Art. 21 of the Law of the Republic of Belarus *On Provision of Psychiatric Assistance.*

3. The Law *On Provision of Psychiatric Assistance* should be amended to include a procedure for appealing against the actions / omissions by the guardianship authority employees.
4. Encourage the appearance in our country of the of the expert evaluation boards alternative to the to the government boards.
5. Ensure civic participation in monitoring of the rights of the persons who have been deprived of their dispositive legal capacity and/or are at risk of losing the latter.

ARTICLE 13. ACCESS TO JUSTICE

The Constitution of the Republic of Belarus declares equality of all before law and the right to an equal protection of rights and legitimate interests without discrimination as an unconditional one. However, the members of the Bar are limited in the category of cases and the range of persons, where assistance can be provided on a gratuity basis, including at the expense of the local budget or at the expense of the Bar Council. Such a state of affairs cannot guarantee to the full extent a sufficient defence lawyer protection to the persons with disabilities.

The Public Association *Belarusian Society of the Deaf* (9,300 members with hearing-related disabilities) keeps records of the problems faced by the deaf, when engaging in process activities and judicial procedures with an interpretation provided to/from the Belarusian sign language by skilled Belarusian sign language interpreters.

The Law of the Republic of Belarus *On Court Enforcement Proceedings*, CoEPoAI, PC, CPC and the Instruction on Notarisation Procedure provide for engagement in interpretation of „persons who understand the signs of the deaf and/or the dumb.“ Yet, engagement in interpretation of the „persons who understand the signs of the deaf and/or the dumb“ does not ensure an effective access to justice or a reliable and objective perception by the deaf of the vitally crucial information, or accountability for the quality of the interpretation service provided.

Recommendations:

1. Amend the Law of the Republic of Belarus *On Court Enforcement Proceedings*, CoEPoAI, PC, CPC and the Instruction on Notarisation Procedure with the provision that skilled interpreters of the Belarusian sign language shall be admitted to interpretation of the Belarusian sign language upon presentation of a certificate.
2. Provide for the PwD's right to receive a gratuitous legal help at the level of representation by a Bar lawyer in court, as well as at the consultation level.

ARTICLE 14. LIBERTY AND SECURITY OF PERSON

Putting persons with disabilities into care institutions against their will and without their free informed consent is in breach of Articles 12 and 14 of the CRPD and is deemed an arbitrary deprivation of liberty, since it denies any formal legal capacity for persons with disability.²³

It is daily practice nowadays that, even in case a person poses no danger, she or he may be put by force for medical examination to determine the fact of formal legal capacity against her or his will.

The legitimised practice of providing first psychiatric aid under the conditions, when all its stages before a forced hospitalisation are featured by decisions made by the specialist call centre operators or healthcare staff arbitrarily, with no external supervision, does not guarantee enjoyment of human and patient's rights.

²³ <http://www.disright.org/sites/default/files/source/14.07.2017/final-feasibility-report.pdf>

ARTICLE 15. FREEDOM OF TORTURE OR CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

Lack of a proper criminalisation of torture or cruel, inhuman or degrading treatment as a misdemeanour in office, in practical terms, reduces possibilities to keep an official responsible, and excludes a possible statistical recording. This is why assessment of the scale to which torture or cruel treatment are applied using the judicial statistical data does not seem possible.²⁴

Quite often, incarceration of persons with disability in jails could be made equal to cruel and inhuman treatment. In spite of the fact that a special legislative penitentiary act provides for some positive measures with regard to PwD, such as an additional parcel, creation to disabled people of upgraded staying conditions or work at will,²⁵ the general legislation on protection of the rights of persons with disability is not adhered to at the correctional facilities. For instance, there are no known cases, when a person with a confirmed need for an external care could use the right, the DPIRP are completely ignored and there are no possibilities to get or use the necessary rehabilitation means, while the healthcare services are inadequate. As a result, the general conditions for serving a punishment become for the PwD a cruel and inhuman treatment.

Shortage of the Belarusian sign language interpreters (there are just 65 such specialists in the country) and the related difficulty to engage them swiftly in interrogations or other investigation activities involving a deaf person leads to violations of human rights for a person with hearing-related disabilities, while extending the time of her or his detention or to a direct infringement of her or his rights, up to a self-frame.

When staying at a penitentiary facility, a deaf person finds her- or himself in an information and communication deadlock because the interpreters are not available.

²⁴ <https://spring96.org/ru/news/62254>

²⁵ Art. 84, 94 and 98 of the Penitentiary Code.

ARTICLE 16. FREEDOM FROM EXPLOITATION, VIOLENCE AND ABUSE

In Belarus, no special measures are provided for to prevent violence against PwD.

The effective Law of the Republic of Belarus of 10 November 2008 *On Basic Activities Related to Delinquency Prevention* contains some measures meant to prevent family violence. The Law, notably, obliges the relevant authorities to develop regional programmes related to delinquency prevention. No sufficient measures have been provided for to prevent and avert family violence, in particular, against PwD.

The TCPSCs that operate in every administrative district provide their services to the women who are victims of violence. However, no steps have been taken to make all the services and resources available for prevention and assistance to violence victims available also to PwD. Thus, the „crisis room“ network in the making on the basis of the TCPSCs that is intended to provide social, psychological, rehabilitation or other aid forms to the women who have found themselves in a difficult existential situation is sometimes not available for persons with disabilities. Notably, a TCPSC can refuse providing such assistance to the citizens with psychophysical development peculiarities.²⁶

The „rehabilitation by labour“ that is practiced at the psycho-neurological care centres demonstrates the signs of forced labour and exploitation of the persons staying there, who have been deprived of their dispositive legal capacity.

Recommendations:

1. Exclude discrimination in providing legal assistance to the PwD in the domestic violence situations.
2. Exclude practices, which fall within the exploitation and forced labour characteristics.

²⁶ Paragraph 10 of the Regulation on „Crisis Rooms“ of the Masty District Territorial Centre for Public Social Services.

ARTICLE 17. PROTECTING THE INTEGRITY OF THE PERSON

Belarus does not have an available mechanism to protect persons with disabilities against the treatment that is provided without a voluntary and conscious consent from the person.

A forced psychiatric therapy, which is enshrined in the country in legislation,²⁷ is a violation of the right to equality before the law (Art. 12) and infringes upon the right to personal integrity (Art. 17), freedom from torture (Art. 15), and freedom from violence, exploitation and abuse (Art. 16 of the CRPD).

Part 2 of Art. 36 of Law *On Psychiatric Assistance Provision* of 7 January 2012 No. 349-3 sees **helplessness of a person** who suffers from a mental disorder / disease and eludes therapy as a ground for her or his forced hospitalisation and treatment.

²⁷ Law of the Republic of Belarus *On Psychiatric Assistance* of 01.07.1999 No. 274-3.

ARTICLE 18. LIBERTY OF MOVEMENT AND NATIONALITY

The Constitution (Art. 30) does guarantee freedom of movement and choice of a place of residence for all. In case a person with disability is in need of an outside help, her or his change of the place of residence can be restrained by the conditions needed to receive care services. There is no legal regulation for ensuring care under the situations of a temporary change in the place of residence (for example, education).

Example; In a district administrative centre a wheelchair user moved to live with his wife, which fact served as a reason to discontinue his care services.

ARTICLE 19. LIVING INDEPENDENTLY AND BEING INCLUDED IN THE COMMUNITY

The national social security system is featured by a low resource for special service provisions to persons with disability at the place of their residence. The in-patient social service institutions, i.e. care homes, provide the supreme opportunity to ensure care of persons with grave disability forms.

The care homes represent segregation stay places by definition, which is of a particular threat to the persons who have been ruled legally incapable.

A psycho-neurological care home, which is a state-owned social security institution, is, in fact, the only (as an alternative to living with the family / relatives) institution, where people with mental disorders can live. To stay at the care homes of the kind, the citizens must be ruled legally incapable by court under the procedure in place. In practice, for the purpose of placing a PwD to a care home (as a consequence of having no alternative forms of social security institutions), she or he must be „forcedly“ ruled legally incapable in a civil litigation. As a result, while getting an opportunity to live at an institution, such persons are deprived of all their personal rights and become the most vulnerable population group.

Research indicates at a considerable gap in the opportunities available to ensure conditions needed for respect, fulfilment and protection of human rights for a person with disability, who stays at a care institution as opposed to a person who lives elsewhere.²⁸

The administrative norms that regulate stay at a care home for persons with disabilities admit taking coercion measures for such „defaults“ as breaching the established schedule, rules or routine.

For implementation of Art. 19 of the CRPD, the government takes no steps to arrange PwD stay at the place of their registered domicile or at a similar place with the same living opportunities, or possibilities of participation and liberties, after they are deprived of the relatives“ care; they are not built in into the equally accessible environment, but rather are recognised as people who are unable of performing the role of their country“s citizens and are subjected to ostracism. It means that the government instead of putting in place reasonable accommodations changes the citizens themselves, rather than their circumstances, does not fight

²⁸ <http://cet.eurobelarus.info/ru/library/publication/2014/06/02/kachestvo-zhizni-v-domah-internatah-mezhduzhelaemym-i-real-nym.html>

discrimination related to disabled persons“ segregation and does not create freedom for choosing a place of residence.

The Republic of Belarus lacks the institution of a „personal helper / assistant“ for a person with disability. And although the legislators have provided for a possible benefit payment to the persons who tend a permanent care to Group I disabled persons (in most cases, to their family members), its amount does not reach that of a minimum salary or wage. The situation in question is further aggravated by the fact that the carers may not combine this occupation with any work, including work from home, part-time work, entrepreneurial activities, studies or any other employment under the threat of losing their benefit. In practice, a reason for cancelling the government support for the care can be provided by the carer's temporary incapacity for work, short-time travel abroad or abandoning the person with disability for more than 4 hours. Thus, while substituting the institution of a personal assistant with a benefit, the government tends to exclude the carer from among the unemployed people, but prefers to pay to the carer an amount of money, which is below the minimum salary / wage standards.²⁹

It is proved by the experience of the Republic of Belarus, where the amount of the benefit payable to a carer of a Group I disabled persons makes the equivalent of USD 106, which does not exceed the minimum salary / wage amount that constitutes the equivalent of USD 171 (as of January 2020).³⁰

The extent of the social services provided by the government and intended to guarantee the right to independent living, and, notably, the services of accompanied living (paragraph 460 of the National Report), is set based on the rates in place (Resolution by the Council of Ministers of the Republic of Belarus of 27.12.2012 No. 1218), rather than on the individual needs of a person with disability.

Recommendations:

1. Create a human rights protection mechanism, even if the relevant person has been ruled legally incapable.
2. Attempt to create conditions for an independent living in the society of the persons who have been ruled legally incapable.

²⁹ Panayotova K. Country Report on the Implementation of Policies supporting Independent Living for Disabled People (Bulgaria) [Electronic Resource]: Academic Network of European Disability experts (ANED), May 2009, VT/2007/005. Access information: <http://www.disability-europe.net/downloads/311-bg-6-request-07-aned-2009-task-5-template-bulgaria-to-publish-to-ec>

³⁰ On Setting the Minimum Subsistence Budget in the September 2019 Prices [Electronic Resource]: Resolution by the Ministry of Labour and Social Security of the Republic of Belarus, 23 Oct. 2019, No. 50 //Consultant Plus. Belarus / YurSpektr, LLC, National Legal Information Centre, Republic of Belarus – Minsk, 2020. On Setting the Amount of a Monthly Minimum Salary / Wage [Electronic Resource]: Resolution by the Council of Ministers of the Republic of Belarus, 29 Aug. 2019, No. 582 //Consultant Plus. Belarus / YurSpektr, LLC, National Legal

3. Addressing the problem of a „closed nature“ of the in-patient institutions and ensure the monitoring function in respect of the persons who are in need of special care could be enabled by involving within the „joint care“ process some external carers, such as friends, close relatives or NGO volunteers, who, within the framework of their assumed commitments, would seek to defend the rights and legitimate interests of the person under care, develop her or his ability to understand the meaning of her or his actions, provide a professional training, ensure leisure activities, etc.

ARTICLE 20. PERSONAL MOBILITY

The „social taxi.“ Within the 10 year period since the technology was introduced, an expressly positive effect has been achieved; however, the practice has failed to cover the whole country. There is no uniformity of its application across the nation. The PwD who are not local residents are not entitled to use the service (notably, in Minsk the service may only be used by the local residents).

The Republic of Belarus lacks an integral system to develop programmes, train and provide, for example, the guide dog services for visually impaired persons.

The legalised mechanism to provide rehabilitation means to the persons with disabilities, which is consolidated in Resolution by the Council of Ministers of the Republic of Belarus No. 1722³¹, fails to take into account the individual requirements of every person in need of those; includes a closed obsolete rehabilitation mean list; fails to take into consideration a multitude of disability conditions; deprives the user of protection as a consumer; and in financial terms is guided towards the social security authorities. The system of providing technical rehabilitation means is aimed at using the domestic analogues (in a number of items), thus, stripping a person of the right to choose and of involvement in the choice of the objects.

For example, the prescribed service life of a mobile smartphone provided with the software, which synthesises speech, at present, is very long. Within this period the handset becomes physically and morally obsolete and cannot fulfil to the full extent its functions of a technical rehabilitation means.

For example: children with disability have a limited possibility of receiving an active-type wheelchair.³²

The issue of introducing a compensation mechanism, when receiving a social rehabilitation means, has not been addressed.

A prescription to provide a means of rehabilitation is issued by the MREB composed of 4 experts of a purely healthcare profile, which does not allow taking into account to the full extent the client’s needs and providing her or him with the most appropriate means of rehabilitation in line with her or his condition.

The unjustifiable complexity of the mandatory state certification in respect of the foreign

³¹ Resolution by the Council of Ministers of the Republic of Belarus of 11.12.2007 No. 1722 (edited on 04.11.2017) *On State Register / List of Technical Social Rehabilitation Means and on the Procedure to Provide These to Individual Categories of Citizens.*

³² Resolution by the Ministry of Public Health of 15.06.2016 No. 77 *On Establishment of a List of Medical Indications and Medical Counter-Indications to Provide Citizens with the Technical Rehabilitation Means, in Para 7/*

rehabilitation means leads to the private sector giving up their delivery efforts to the country or to driving up their prices by several times, which considerably limits the choice of means available to the consumers.

The government amends on a regular basis the procedure related to rehabilitation means provisions.

The initial government report states that, apart from the measures taken to create conditions for obstacle-free services provided to the disabled people at public transportation, the government also takes steps to put in place favourable conditions for the disabled persons to use their personal cars. It should be noted, that the Group I disabled persons with musculoskeletal system disorders are not provided with personal cars. Earlier, prior to 2008, the state used to provide personal cars on special terms, whereas prior to 2011 disabled people were in a position to import cars to the Belarusian territory with exemption of customs duties.

Recommendations:

1. Provide for a compensation payable to citizens for using transportation, when the government does not provide any mobility services.
2. Put in place a compensational mechanism, when providing persons with visual disabilities with technical social rehabilitation means.
3. Modify the system, under which the technical social rehabilitation means (TSRM) are provided, in line with the proposals moved by PwD.

ARTICLE 21. FREEDOM OF EXPRESSION AND OPINION, AND ACCESS TO INFORMATION

Access to information for persons with disabilities (visual, auditory or related to mental or intellectual disorders) is considerable limited. The audio description technology development lacks state support. Some individual demonstrations of films or theatre shows accompanied by audio description have been performed by the PA BSSDP and the non-government institution MozArt.³³

There are no legal requirements in place to the TV and cinema productions, theatre shows or sports events as to their adaptation for persons with visual disabilities using the audio description technology. Our country does not provide training of the audio descriptor professionals.

The printed MM (both national and regional) are not accessible to totally sightless persons. The PA BSSDP is implementing an innovative project in this area with support from the Ministry of Information and the Ministry of Labour and Social Security of the Republic of Belarus.³⁴

The legislation of the Republic of Belarus does not encourage the private sector and the MM to provide their information and their services in a form, which is accessible to persons with disabilities, notably, using the website versions supporting special technologies for the disabled people with visual, auditory or intellectual disorders.

„Clear language“ is not used in relations with people with intellectual disability contacting the state authorities or institutions. Neither does the government publish in it any reference, informative or other materials. The Republic of Belarus has no state standards on „clear language,“ which extremely complicates operations of non-for-profit organisations aimed at the promotion and a broad use of „clear language.“

There are no commitments in place or standards for TV companies to adapt their TV content for persons with auditory disorders.

Recommendations:

1. Develop an audio descriptor training syllabus and the requirements for information product accessibility to persons with visual disabilities.

³³ <https://www.sb.by/articles/svet-ekrana-v-tsarstve-tmy.html>, <https://beltiz.by/news/1232-2014-06-27-13-34-51>.

³⁴ <https://beltiz.by/news/3019-proekt-ezhednevnyj-nezavisimyj-bezbarernyj-dostup-k-informatsii-dlya-nezryachikh-v-belarusi-podvodim-itogi-i-govorim-o-perspektivakh>

2. Approve the State Standard STB *Systems of Teletext, Teleguide, Subtitles and Data Transmission by the VHF Range Radio Broadcasting Stations*, which would legally bind all the TV and radio broadcasting entities.
3. Develop a mechanism under which the TV companies would be obliged to adapt TV content for hearing-related disabled persons as per the approved standards of accessible TV broadcasting.
4. Develop and approve the state standards on „clear language.“

ARTICLE 22. RESPECT FOR PRIVACY

The right is most often infringed upon at care home-type institutions, since the internal routine specified in the rules and regulations or any other instructions does not permit believing that privacy, family, home, correspondence or other way of communication are integral and inviolable.³⁵ Besides, the existing concept of care may not guarantee to disabled people respect for privacy, since the decision-makers usually have access to a wide range of personal and other information on the persons and not always exercise a proper attitude to the interests of the persons they represent.

Under the laws in effect, information of a patient seeking medical assistance and on the state of her or his health constitutes doctor-patient confidentiality.³⁶ Although criminal or administrative accountability is provided for for its disclosure, in practice, the persons who gain knowledge of such information in course of their professional duties in a number of cases have not been persecuted or even subjected to disciplinary punishment for spreading personal data.

Example:

A trained nurse and a senior school manager informed parents of all the 4th grade pupils that one of the children had epilepsy and posed danger, which caused a stigma and stalking from the classmates. After the pupil's mother tried to seek help and write a complaint to the headmaster, she received oral apologies. The guilty persons were not brought to disciplinary or any other accountability.

³⁵ <http://www.disright.org/sites/default/files/source/14.07.2017/final-feasibility-report.pdf>

³⁶ Art. 46 of the Law of the Republic of Belarus of 18.06.1993 No. 2435-XII *On Public Health*.

ARTICLE 23.

RESPECT FOR-HOME AND THE FAMILY

Belarus persistently practices taking away children from their parents, also without stripping them of parental rights, because one or two of the parents are disabled. That said, reference is made to „medical indications.“ Typically, taking-away occurs, when the parents have mental or intellectual disorders; however, this is not always the case – physical disorders are also sometimes quoted as a reason for taking children away.

The legislation contains a provision about limiting access to the Group I and II persons with disabilities to act as an adoptive parent, foster parent, educator / parent at a family-type children's home or children's village / town, guardian or custodian. Certain resolutions by the MoPH are used, and illegitimately so, as an argument. Mental or behaviour-related disorders are also quoted among other diseases. As per paragraph 2 of Art. 93 of the Belarusian Code on Marriage and Family, failure to perform parental duties because of a health condition shall be determined on the basis of an opinion passed by a Medical Consultative Board and issued by a state-owned health care institution.

Recommendations:

1. Change the procedure related to determining parents as unable of performing their parental duties, so as to take into account other factors than the medical one, like the social or pedagogical factors, based on a decision made by a board and subject to a strictly specified decision-making or appellation procedure.
2. Exclude in principle a disease as a legal ground to limit the parental duty exercise.

ARTICLE 24. EDUCATION

The issue related to transporting children with disabilities to schools remains outstanding, although there are such relevant legal requirements enacted.

The secondary special and higher schooling systems are not prepared to train sightless students: the environment accessibility is not present and the sightless or visually impaired students are not provided with technical rehabilitation means. The prospective university students with grave visual disorders are not enabled with a choice either to pass their entrance examinations in the form of Centralised Tests or to pass their entrance examinations before an Enrolment Panel.

There is no resource centre to provide educational or methodological support to sightless or visually impaired students.

As per Edict by President of the Republic of Belarus of 07.02.2006 No. 80 (as edited in Edict by President of the Republic of Belarus 09.01.2017 No. 4) *Enrolment Regulations for Persons to Obtain Stage I Higher Education*, one of the conditions attached to be enrolled by the higher educational establishments is submission to the Enrolment Board by a prospective student of recommendations for training in a specific profession by a MREB.

The number of professions, training in which is limited for persons with various disabilities, has been legitimised, and that restrains a human being's right to be trained in an area of her or his choice.

The persons with a mental disorder-linked disability have minimum opportunities to get a higher education.

The legislation in effect does not have a legal basis for extending the application of distance learning practices.

The choice of an educational establishment within the framework a general or special education system is made **with due regard to the norms contained in Resolution by the Ministry of Public Health of the Republic of Belarus of 22.12.2011 No. 128 *On Determining Medical Indications and Counter-Indications for Getting an Education***.

Contrary to the fact that under Art. 265 of the Belarusian Code on Education upbringing and education of a child with disability at special educational institutions is only possible subject to consent in writing to be granted by its legal representative, in practice parents are coerced to make a choice in favour of special kindergartens and schools or education at home with reference to Resolution No. 128.

Example:

A mother of a child with the Down syndrome has been refused issuing a referral to a state-owned educational institution to absorb the contents of pre-school education syllabus. Explanations have been provided that the child was only „capable of absorbing“ a special education syllabus at the level of pre-school education for persons with intellectual insufficiency.

The regulatory legal framework only provides for accompaniment of trainees with autistic disorders (paragraph 394 of the National Report). No accompaniment of trainees with other disorder types is provided for. A possible provision of such guarantee has a discriminatory nature due to an artificial legal collision.³⁷ As members of the PA BAADC&YDP report, it leads to the situation that the PMPBs refuse to issue to the parents of the children with the disorders other than autistic ones any recommendations on creating special educational conditions, including a personal accompaniment, whereas the educational institutions do not provide their special assistant services, because they lack a legislatively consolidated duty to make arrangements for such an accompaniment to the persons with the musculoskeletal or intellectual disorders, such as the Down syndrome, childhood disintegrative disorder, hyperactive disorder combined with mental retardation or stereotypical movements, Asperger syndrome or other general development disorders.

A meaningful process has to be rolled out to discontinue a linguistic discrimination and to prepare deaf children for day-care centres with a linguistic equality. Children with deafness are in need of mastering at the age between 0 and 5 years two languages: the Belarusian sign language and one of the two official languages in the country. The deaf children's education

³⁷ The inclusive education development concept in respect of persons with psychophysical development peculiarities in the Republic of Belarus recognises the need for organising accompaniment / assisting as a component of the adaptive educational environment.

Resolution by the Ministry of Education of the Republic of Belarus of 16 August 2011 No. 233 On Approval of Regulations on the Centre for Special Education and Rehabilitation and Abrogation of Certain Regulatory Legal Acts of the Republic of Belarus does not contain, either, a closed list of indications for the creation of these or those special conditions to get an education, which would include, among other things, accompaniment.

At the same time, Resolution by the Ministry of Labour and Social Security of the Republic of Belarus of 06.06.2016 No. 26 in an attachment to Resolution by the Ministry of Labour of the Republic of Belarus of 28.04.2001 No. 53 On Approval of the Eligibility Reference Book of Civil Servants" Positions has reduced in practice the range of personal accompaniment beneficiaries at the educational establishments only to trainees with autistic disorders.

The latest instructive and methodological letters by the Ministry of Education of the Republic of Belarus On Work in the 2019/2020th Academic Year of Pedagogic Teams at the Educational Establishments Implementing the Curriculum of Special Education at the General Special Level or Curriculum of the General Secondary Education for Persons with Intellectual Insufficiency и On Arranging in the 2019/2020th Academic Year the Educational Process at the Educational Establishments Implementing the Curriculum of Pre-School Education, Curriculum of Special Education at the Pre-School Education Level or Curriculum of Special Education at the Pre-School Education Level for Persons with Intellectual Insufficiency, which were approved under an Order by the Deputy Minister of Education on 14 and 10 July 2019, respectively, likewise specify the contents and objectives of personal accompaniment exclusively in relation to the students with autistic disorders.

system in Belarus is still aimed at the formation of pronunciation skills, i.e. 'hearing and speaking,' which does not ensure enjoyment of the right to education under the circumstances that would promote to an utmost degree absorption of knowledge and social development using the most appropriate languages and methods for an individual.

We need an incremental movement forward towards the recognition of the Belarusian sign language as a language for notional apparatus formation for deaf children, for the development of their attentiveness and logical thinking and as a way of getting knowledge alongside others.

The psychological-medical-pedagogical examination, while being a non-obligatory element of the educational system, has in practice acquired an overwhelming significance. A stream of complaints filed by parents against the PMPBs provides an evidence of a controversial nature of the results of their work, and, in a number of cases, the board itself transforms into a barrier in the way to education for a child with disability.

Example: The duration of a PMPB examination amounts to about half an hour, and the documents submitted to the Board's review form the basis for a formal determination of an educational trajectory.

Funding. The funding system of the education provided in Belarus to the children with peculiarities supports a segregation pattern and a pattern of special education; it discourages the general education schools from accepting children with SEN (special educational needs); fails to motivate the teachers to embrace retraining and advanced training to work with the children with SEN; and it fails to stimulate an upgrade of educational service quality, while neither monitoring or penalties for poor results are being implemented in practice.

As a matter of fact, the teaching staff is not prepared for inclusion and the institutions themselves with their poor technical arrangements and scarce equipment are not prepared, either.

The financial burden related to the implementation of the inclusion arrangements rests due to some indirect measures with the parents of children with disability themselves.

Curricula. The integration training curricula in use do not transform into inclusive curricula.

Example: The integrated training groups only provide children's joint education for a very short list of courses, such as Fine Arts, Physical Training and Health, Music, Labour Education or Basics of Vital Functions Safety. As for the rest, the children follow their own curricula and learn separately, they are even separated during the breaks between their lessons.

Example: A child who is taught a curriculum for children with educational difficulties does not have any time assigned for individual correctional classes the child (according to its legal

representatives) needs. The additional correctional time is assigned proceeding from the teachers' standard workload and group membership, rather than based on a child's individual needs.

Personnel training. The modern tools and methodologies used in work with the children with disabilities that have been successfully introduced globally (for example, ABA, PECS, etc.) are not integrated with the state education system, neither are any specialists trained how to use them.

The parents have to pay for the relevant classes on a private basis, while the price of such services per month is a double or triple amount of an average monthly salary or wage.

The institution personnel unpreparedness leads to a child being excluded from the educational process, which is often dismissed by reference to its intellectual limitations. In such a case, the family is often proposed to have a child educated at home or to transfer it to a special educational establishment. Although a child may not be committed to education at home without consent from its legal representatives, the educational institution administration very often exerts pressure on the parents.

Facts:

A school headmaster suggests to the mother of a child with a rare genetic disease to commit the child to education at home because of two convulsive attacks within a half-year period.

Inclusive education. Since the notion of inclusion is not available in the Belarusian legislation, back in 2015 the government adopted a concept of inclusive education development for persons with PDP in the Republic of Belarus; yet, a concept is not a regulatory document.

The following options are being availed to the parents: general educational institutions, special educational institutions, integrated groups and classes (a form of special education, whereby children with PDPs are trained jointly with children without PDPs) and education at home. However, a number of the above-mentioned options may be absent in small communities or the number of places assigned at an educational institution may not match the real demand, thus limiting even more the child's educational opportunities.

Facts

A Maryina Horoka parent has to carry a child with disability at her own expense to a day-care centre in Minsk, the distance between the places being 80 km, since the integrated day-care centre group at the place of residence is overbooked (31 places).

Parental participation. Parental participation in the educational process is not encouraged by the educational institution.

We can observe a very low information level and even witness disinformation directed at the legal representatives and specialists on the rights of children with disability.

Facts:

The school administration has refused to accept application documents from a mother of a child with disability at the place of their residence.

Access to information. Access to the current information on the websites of the government authorities and organisations in the sphere of education has deteriorated. For example, the website of the Directorate for Special Education (asabliva.by), which was dismantled in 2017, is no longer updated.

Recommendations:

1. Set up resource centres to provide assistance to the pupils / students with disabilities related to hearing, sight, mobility, etc.
2. Formation of the regulatory legal framework intended for a broad-basis distance learning introduction.
3. Development and integration of adapted curricula for children with mental and physical development peculiarities.
4. Promote mastering the sign language by children with deafness aged between 0 and 5 years.
5. Elaborate flexible educational standards and harmonise the curriculum teaching methodologies with the needs of a deaf child on the basis of verbal / sign bilingualism.
6. Revision of the education funding system:
 - a. need for transition to the per capita financing pattern; and
 - b. need to raise the pay rates and increments for implementing inclusive processes.
7. Revision of the personnel training / retraining system for the special education sphere:
 - a. Curricula and courses are needed to cover modern approaches, methodologies and toolkits to work with the children with development peculiarities or with disabilities.
8. Transition to the educational sphere individualisation:
 - a. need to assure an individual accompaniment for every child depending on its individual deficit or competence profile, proceeding from the best interest of the child;
 - b. need to introduce flexible curricula, including the development of individual educational trajectories; and
 - c. need to develop the tutorship institution.
9. Setting up a system of independent monitoring at the educational institutions as to

observance of the legitimate rights and interests of the disability with an involvement of their legal representatives and NGOs.

10. Creation and development of the tutorship institution.

11. Imposing a ban on refusal to introduce an assistant educator staffing position because of financial restraints.

12. Adoption of flexible financing schemes and economic stimuli for the position of an accompaniment educator.

13. Extending the labour norms, as far as the employment or labour guarantee benefits provided to the pedagogical staff, such as teachers or educators, are concerned, to the position of an accompaniment educator.

14. Development of curricula and staff training courses on modern approaches, methods and toolkits to work with the children with disability and development peculiarities.

ARTICLE 25. HEALTH

The status of a „disabled person“ in the Republic of Belarus is attributed by a medical rehabilitation expert board and following its conclusions proceeding from the assessment of a citizen’s health condition.³⁸ The definition of disabled persons contained in the CRPD was introduced as far back as in 2009 into Art. 1 of Law of the Republic of Belarus of 11.11.1991 No. 1224-XII *On Social Security of Disabled Persons in the Republic of Belarus* as edited in Law of Belarus of 17.07.2009 No. 48-3.

The disability assessment methodology as per the ICoF³⁹ is not a basic methodological tool in Belarus. The basis for the methods applied to determine disability is predominantly provided by the use of diagnoses and their hypothetical consequences in terms of limiting the life-sustaining activity.

According to the Belarusian legislation, the CRPD effect only covers persons with mental diseases, who have been formally attributed with disability. Their share in the total quantity of persons with mental diseases tends to be very low, about 15 per cent. A similar situation is also observed with other disability nosologies: the percentage of attributed disability makes up a small part of the persons as understood such in light of the CRPD.

That being said, the basis regulatory legal act, which regulates the mental health sphere in the Republic of Belarus – Law of the Republic of Belarus of 7 January 2012 No. 349-3 *On Psychiatric Assistance Provision*, in general, fails to mention people with disabilities.

When appealing against the outcome of the medical expertise opinion on disability group attribution, the court invites MREB specialists and is guided by their conclusions, because the country does not have any other entities offering independent expertise services.

The process of informing patients on the state of their health and on the right to review medical opinions and other documents pertaining to their diseases, diagnoses and disease progress dynamics, or on the treatment and rehabilitation ways and methods, as well as on medication therapy is not implemented to a sufficient extent.

Most healthcare institutions remain inaccessible to certain categories of persons with disability physically (barriers and remoteness), as well as because of their procedures and practices in place.

³⁸ Resolution by the Ministry of Public Health of the Republic of Belarus of 25 October 2007 No. 97 *On Approval of the Instruction on the Procedure and Criteria to Determine the Disability Group and Reasons, List of Medical Indications Eligible to Receive a Social Pension for Disabled Children Aged under 18 Years and the Extent of Their Health Loss*.

³⁹ World Health Organisation. *International Classification of Functioning, Disability and Health: ICF*. Geneva: WHO, 2001.

A considerable limitation in terms of healthcare accessibility for the persons with disabilities is represented by the established administrative procedures related to providing pharmaceutical products to those who need them free of charge or on attractive terms. Thus, instead of providing to the persons who need them, some efficient medicines, a prohibitive practice has been put in place to replace these totally with their domestic analogues, irrespective of their therapeutic effect.

Sexual and reproductive health. The initial government report states that as per Art. 24 of the Law of the Republic of Belarus *On Public Health* Belarus protects and encourages maternity. Women are guaranteed medical observation and healthcare assistance at in-patient state-owned healthcare institutions during pregnancy, childbirth and during the postnatal period.

The general problem is provided by insufficient competences within the healthcare system on women's reproductive health following the spinal cord injuries, which leads to taking unjustified decisions and not in favour of female patients.⁴⁰

The government does not provide to a sufficient degree those healthcare services, which are needed by the persons with disability directly because of their disability.

Example: The spinal cord injuries and some diseases lead to functional pelvic organ disorders (FPODs). The effective clinical protocol / pathway related to adult urological patients' diagnosis and therapy⁴¹ fails to prescribe to such patients, when providing medical help at the out- and in-patient healthcare institutions of the Republic of Belarus, diagnosis to determine the bladder type or the methods, modern techniques and medicinal drugs to compensate for the functions lost.

⁴⁰ <http://wmeste.by/?p=32884>

⁴¹ Order by the Belarusian Ministry of Public Health of 22.09.2011 No. 920

ARTICLE 26. HABILITATION AND REHABILITATION

At present, people with visual disabilities can undergo a rehabilitation course at a department of the Vitebsk care home for elderly and disabled persons (Vitebsk Region residents) and at a rehabilitation department of the Padyelniki spa run by the PA BSSDP, or to get rehabilitation services at the territorial centres for public social services, within the PA BSSDP system and at the rehabilitation institution for the visually impaired disabled people *Centre of a Successful Person*.

The state-run rehabilitation service system today has serious drawbacks:

there is no concept of a „personal disabled person“s budget“ in place;

the specialists are poorly skilled;

the level of logistical provisions in terms of supplies of modern technical social rehabilitation means and adaptive software is insufficient;

There is no employment system in place for persons with disability as a final stage of rehabilitation measures; and

there is no single national rehabilitation centre for persons with sight-related disability.

Paragraph 240 of the initial government report states that, to ensure the rehabilitation service accessibility, the district level has 18 district / inter-district multi-profile medical rehabilitation departments. These departments lack the accessible environment.

Example: a wheelchair user was receiving medical rehabilitation services at an administrative district centre. Because use of the hospital toilet was out of question, he had to go home to use one. In order to leave, he was to ask the medical staff for permission. He was not always allowed to go, then he used to leave without authorisation, because of which he was chased away from the in-clinic for breaking the regulations.

Order by MoPH No. 1300 *On Procedure for Providing Medical Rehabilitation at Out- and In-Patient Institutions under Conditions of Daytime Stay* fails to include an out-patient medical rehabilitation period for the disabled people of functional class 4.

The medical rehabilitation hospitals (whether of the national, district or inter-district level should include in their staff the position of a social specialist to serve as a connecting link among the Ministry of Public Health, Ministry of Labour and Social Security, Ministry of Education, housing and utility sector and the NGOs. The specialist must be included in the MREB

composition. His functions will cover documentation collection and keeping on TSRM, examination conducted at the place of a disabled person's residence, drafting the ToR for the housing and utility services on barrier-free environment creation, etc.

Many NGOs conduct efficient rehabilitation events. Inclusion of these events on a disabled person's IRP would allow her or him a faster and more robust adaptation to the new condition.

The legislation fails to regulate the issue of the persons with disability working at specialised labour workshops. Lack of regulated conditions for their operations puts the workshops into a position of vulnerability, including the personnel and the employees.

Following the completion of a therapy course at the mental institutions of the healthcare system, the people with mental diseases are unable to undergo social rehabilitation, except within the Club House system run by the public associations – the PA Belarusian Social Worker Association and the Red Cross.

As per Art. 5 of Law of the Republic of Belarus *On Disability Prevention and Disabled Persons' Rehabilitation* of 23 July 2008 No. 422-3, the state policy of the Republic of Belarus in the area of disability prevention and disabled people's rehabilitation is expressed in the creation of legal, economic and social guarantees to protect the citizens' health, as well as in meeting the disabled persons' needs for rehabilitation means and rehabilitation events.

In the Republic of Belarus, rehabilitation of persons with mental disorders is mainly represented by medical rehabilitation at the psychiatric institutions of the Ministry of Public Health. At present, medical methods provide a predominant basis for rehabilitation of the people with mental disorders.

No specialised state-owned rehabilitation services exist.

Recommendations:

1. Introduce the notion of a „personal disabled person's budget“ and develop its implementation mechanism.
2. Set up a single national rehabilitation centre for persons with a sight-related disability and include vocational training for the persons with disability in its rehabilitation programme subject to a subsequent employment.
3. The DPIRP should be amended with a section on work place adaptation and barrier-free environment creation. In case work in the previous pre-disability profession is deemed impossible, career guidance and retraining must be implemented.
4. Introduce into the state-run healthcare system a social rehabilitation component for

persons with disability to ensure the human being's inclusion in the society, a possible independent living outside the in-patient institutions and, as a result, their higher living standards.

5. Single out the accompanied employment service into an independent social service and consolidate in legislation the local executive authorities' obligation to compensate to the employers the salaries of the assistants who provide help to persons with disability, when they discharge their labour functions within the adaptation process.

ARTICLE 27. WORK AND EMPLOYMENT

For the Group I and II PwD a mandatory (irrespective of the opinion of the person with disability her- or himself) reduced working hours (max. 35 hours per week)⁴² and a max. 7 hour long working day (which is 5 hours less than the standard working week duration) have been set. Besides, the said categories of persons with disability are prohibited from pluralising.

The laws in effect do not include the notion of a „social enterprise,“ i.e. the one that mainly seeks employment of persons with disability, rather than generating profits. Such enterprises could employ the people, who are unable for health reasons to compete on the free labour market.

When PwD engage in entrepreneurial activities, they are not protected due to their disability. The legislative norm on providing disabled entrepreneurs with premises for their business is not supported by the appropriate legal mechanisms for its implementation.

The labour legislation contains an obligation in respect of a person with disability to submit additional permissive documents to an employer, or labour recommendations, as opposed to persons without disabilities.

As per Art. 286 of the Belarusian Labour Code, employers should create jobs, including the specialised ones, for persons with disability.

The open labour market, in practical terms, has no home-based job offers, which is due both to the difficulties involved in high-performance work arrangements and to the lack of process regulations in the area.

The government does not conduct with a sufficient efficacy monitoring of the right of persons with disability and undertakes no systemic measures to protect against their discrimination and infringement of their rights.

A person with disability is entitled to refuse any part of her or his individual rehabilitation programme, a binding document for any authorised organisation. The Ministry of Public Health consistently opposes the freedom of choice, while its local level institutions create an unfavourable atmosphere against a possible enjoyment of the right.

The body, which sets the measures of professional rehabilitation and employment for the persons with disability, is the MREB. The MREB experts, who are almost always medical

⁴² Code of the Republic of Belarus of 26.07.1999 No. 296-3 (edition of 15.07.2015) – Labour Code of the Republic of Belarus, page. 114.

profession, attribute the disability group and pronounce a medical opinion, which is used as a basis for drafting an individual rehabilitation programme. It has a health-oriented nature and, notably, determines the types of work that are counter-indicated to the person. That said, the main priority is given to the patient's condition of health, rather than, let us hypothesise, the labour market situation in the area.

The Republic of Belarus does not have guarantees to implement the right to work for persons with grave multiple and/or intellectual disorders.

Thus, the rehabilitation labour workshops, which function within the territorial public social service centres, are not independent business entities or full-fledged participants of civil circulation, and the work of persons with disability there is not paid for.

The country lacks the service of an „employment assistant for persons with disability“ of the „social enterprise“ institution.

And although aid in employment can be provided to the people with disability within the framework of the accompanied living service,⁴³ equating the accompanied employment service to the accompanied living service serves to make it subject to all those limitations, which are provided for in the legislation, viz.: services of an assistant or helper on accompaniment may be extended to single and living alone Group I and II disabled persons with mental disorders or to Group I disabled persons with skeletomuscular and/or visual disorders.⁴⁴

Recommendations:

1. Modify the expertise and labour recommendation system and extend its social expert component.
2. Take steps to develop the professional retraining system; expand access to the vocational and higher education; and lift the discriminatory limitations.
3. Develop and approve a special PwD employment regulation mode (social enterprises, workshops, protected labour, accompanied employment, etc.).
4. Seek the creation of encouraging conditions to motivate PwD to labour.
5. Upgrade the efficiency for counteracting to PwD discrimination in the labour sphere.

⁴³ The list of gratuitous and publicly available social services provided by the state-run social security institutions with the appropriate norms and standards to provide such services to the public has been approved under Resolution. by the Council of Ministers of the Republic of Belarus of 27.12.2012 No. 1218 On Certain Issues Related to Social Service Provision.

⁴⁴ Resolution by the Council of Ministers of the Republic of Belarus of 27.12.2012 No. 1218 (edition of 09.02.2017) *On Certain Issues Related to Social Service Provision*, Item 27 of the List.

ARTICLE 28. ADEQUATE STANDARD OF LIVING AND SOCIAL PROTECTION

The Republic of Belarus defines the sufficient living standard proceeding from the calculation of a minimum subsistence budget as a social standard.

The indicator is calculated for the major social or demographic populations, with no category of persons with disability being present among them, despite all peculiarities of their necessities, such as medicines, rehabilitation, special meals, etc. Thereby, there is no adequate index to assess both the requirements and poverty among persons with disability.

The social pension of a Group I person disabled from childhood amounts to BYN 255.01 per month⁴⁵ (appr. USD 116), which is below the minimum consumer budget for the retired people, BYN 375.65, and, accordingly cannot meet the needs of a person with disability.

The „full social security“ (a term used by the legislators without a proper definition) for the residents of care homes or an insight into the norms that regulate placement in the care homes and a free living there fail to give an unambiguous determination of the civil relationship type between a care home dweller and the proprietor, i.e. the state. Such a state of affairs casts doubts as to the justifiability of expropriating from the people residing on such conditions 90 per cent of their retirement benefits under the guarantees of a „full social security.“

The list of medical indications and counter-indications for social service provision at the social security institutions approved under Resolution by the Ministry of Labour and Social Security of the Republic of Belarus and the Ministry of Public Health of 10.01.2013 No. 3 / 4 puts in the way of using the social services some obstacles and limits to the greatest extent the rights of people with multiple and intellectual disorders, as well as creates additional obligations and a negative reputation for the service access topic.

The psychiatric evaluation in Belarus is an extremely stressful and emotionally exhausting procedure for the persons with mental and/or intellectual disorders, as well as for their families. The medical aid in this case cannot lead to convalescence and in many cases to mitigation of the condition; and there is a need to minimise the mental trauma situations and to reduce them to a reasonable established level.

⁴⁵ <https://neg.by/novosti/otkrytj/minimalnye-trudovye-i-socialnye-pensii-s-1-noyabrya>

ARTICLE 29. PARTICIPATION IN POLITICAL AND PUBLIC LIFE

Persons with mental illnesses or intellectual disabilities declared incapable by court are deprived of the right to vote and respectively the right to stand, be members of election commissions, of political parties and other civic organizations.⁴⁶ There are no official statistics, but approximately 45,000 persons are deprived of legal capacity. Additional legal procedures on deprivation of legal capacity and its restoration does not ensure best interests of persons with disabilities.⁴⁷ (See Section on the right to vote)

National legislation prescribes the main aspects of physical accessibility, architectural accessibility, but, much less accessibility of information and other aspects of accessibility. This general situation negatively influences the elections.

A voter who is unable to come to a polling station on election day has the right to vote at a place where he or she is located.⁴⁸ There is no legal requirement to choose and to conduct elections only in fully accessible buildings. State institutions (election commissions and local executive authorities) should just facilitate accessibility of polling stations, as for example there is a recommendation that polling stations should be a priori on the ground floor to accommodate persons with mobility issues.

During the last several elections the CEC adopted special resolutions to facilitate participation of persons with disabilities, prescribing special booths or tables for wheelchairs users, providing informational material in Braille as well as magnification sheets and stencils for the visually-impaired. Training for commissions members not always includes a section on organization of voting for persons with disabilities. In the 2019 CEC resolution on participation of persons with disabilities in parliamentary elections, for the first-time candidates with disabilities were mentioned prescribing that campaign places should be accessible where possible or candidates can use their proxies to campaign.

The CEC web-site is still not accessible for voters with hearing impairments. Political parties and candidates are not required to be more inclusive. State TV channels should provide subtitles and sign language interpretation only for campaign information – i.e. just the official appearance of candidates on TV - and usually as part of one news block during the day.

⁴⁶ Article 4 of the Election Code, Article 13 of the Law on Political Parties.

⁴⁷ Article 375 of the Civil Procedural Code allows the court to consider the cases on deprivation of legal capacity without the participation of a person with disability, if it considers it impossible for a person to be present for health reasons. Further a citizen recognized incapable does not have the opportunity to initiate the question of restoration of legal capacity. According to article 376 such cases may be initiated at the request of a guardian or other legal representatives.

⁴⁸ Article 54 of the Election Code

It is common practice to set up polling stations in health centres, preventive care centres, hospitals and other health organizations providing inpatient medical treatment.⁴⁹ While this contributes to ensuring the implementation of the right to vote, there is usually a lack of observation in such institutions and broad possibilities for manipulation of voters.

A voter who is not able to fill in the ballot by herself or himself has the right to use the assistance of a person other than members of election commissions, candidates, their proxies and observers.⁵⁰ No additional measures or guarantees are prescribed for candidates with disabilities (e.g. sign language interpreters, additional finances) to ensure equal conditions with others.

Since January 2021, the Office for the Rights of Persons with Disabilities has been persecuted for its human rights activities. This is the only example in Belarus of persecution for cooperation with UN bodies. The Office was searched, equipment and documents were confiscated, a criminal case was opened against the director and a lawyer, and both are under arrest. The UN special procedures were informed about the situation, and they made statements and appeals to the Belarusian authorities, however, without any response at the time of submitting this report.

Recommendations:

1. More strict requirements should be introduced in relation to accessibility of polling stations. Accessible buildings should be selected to serve as polling stations. In cases where accessibility is limited to enter the polling station, mobile ramps should be provided by the state. Voting should always take place on the first floor to allow direct access by voters with disabilities.
2. More efforts should be done to ensure accessibility of information, such as making the CEC web-site fully accessible, broadcast CEC sessions and statements of CEC chairperson with subtitles, and ensuring that all TV news blocks have subtitles and sign language interpretation. Training for commissions members should include a section on organization of voting for persons with disabilities.
3. Consideration should be given to creating a special fund or to use the CEC extra-budgetary fund to cover individual requests of candidates with disabilities in order to increase overall political participation of persons with disabilities in these and other roles.
4. Immediately end the obstruction of the Office for the Rights of Persons with Disabilities and the harassment of its staff.

⁴⁹ Article 17 of the Election Code.

⁵⁰ Article 52 of the Election Code.

ARTICLE 30. PARTICIPATION IN CULTURAL LIFE, RECREATION, LEISURE AND SPORT

Typically, the money prize awards to the winners of the Olympics and Paralympics differ exactly threefold, the paralympians being discriminated.

Not a single national-significance cultural or sports facility ensures an independent access to the people with visual disability as far as the accessibility of the facility itself is concerned or in terms of the event or sports equipment accessibility.

The notion of „audio description“ is substituted with the notion of „audio guiding.“ Section 123 of Resolution by the Council of Ministers of the Republic of Belarus of 30.01.2016 No. 73 (as edited on 18.10.2018) *On Approval of the 2016-2020 State Programme on Social Security and Public Employment Promotion*, entitled *Audio Description Use in Museums and Exhibition Halls* has not as of today been implemented.

The care homes, which perform the function of a guardian / custodian, are unable of identifying and expressing the interests of every one of their care recipients. The rights guaranteed under the CRPD, including the right to education, right to participation in cultural life, recreation, leisure and sport, and the right to health, are based on a human being's individual needs, identification of which for every care home-type institutions" wards, under the conditions of a limited personnel number, is extremely difficult, and that leads to infringements of the rights.

ARTICLE 31. STATISTICS AND DATA COLLECTION

The disability-related statistical information is collected by the Ministry of Public Health, Ministry of Labour and Social Security and by the Ministry of Education. The available ministry databases are generated under different methodologies or procedures, and their data differ.

For example, by autumn 2016, the national database of the Ministry of Education had contained information on 149,919 children with PDP, including 11,288 children with disabilities. However, according to the data published by the Ministry of Public Health in the annual official digest Public Health in the Republic of Belarus, by 1 January 2014, Belarus had had 25.1 thousand children with an officially attributed status of disabled persons. Whereas as per the data of the Ministry of Labour and Social Security, the number of disabled children aged less than 18 years in 2016 amounted to 54,450.

The databank of the Ministry of Education is formed under the declarative principle, rather than the detecting one, which leads to statistical distortions.

For example, according to the data of the Ministry of Education, the special education coverage of the children who need it is very close to 100 per cent. In the meantime, the Public Charitable Organisation Belarusian Children's Hospice identified in 2016 some categories of children, who had never been handled by the educational system experts, also because Belarus does not have for the purpose any special equipment or because the experts cannot work with some gravely ill children categories.

In summary, with due regard to the procedural aspects, a conclusion could be made that such a generalised statistics does not tend to give an idea how the educational system for children with various disorder forms is organised.