

# LEGAL FRAMEWORK GOVERNING DISABILITY RIGHTS

*Burkina Faso, Mali, Niger, Senegal, Sierra Leone and Togo*



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The 6 countries of the DECISIPH project are signatories to several **international, regional and national instruments** protecting the rights of persons with disabilities.

Some of the international, regional or national instruments have a **general nature** and therefore also address the rights of persons with disabilities, just like those of other. However, there are other **specific** instruments intended especially to promote and protect the rights of persons with disabilities.

Certain instruments are **legally binding** for the States that ratify them, such as treaties, conventions and protocols. Countries that have ratified an international treaty have to issue implementing orders, revise existing laws or introduce new laws to give full effect to the treaty on the national territory. Treaties can be used to urge governments to respect the provisions they have agreed to.

On the other hand, other instruments like declarations, resolutions, rules or principles are **non-binding**. They may be used in certain situations to encourage governments to give a more positive picture of their countries regarding the human rights situation.

This document provides an overview of **legally binding** instruments for States as far as disability rights are concerned.

## GENERAL INTERNATIONAL AND REGIONAL INSTRUMENTS

The 6 countries of the DECISIPH project are signatories to several general international, regional and national instruments protecting the **rights of all human beings**. Although people with disabilities are not explicitly mentioned, these instruments guarantee the fundamental rights to all human beings, irrespective of gender, race, religion, ethnic origin, political belief or any other status.

All these instruments are based on the principle that:

*“All human beings are born free and equal in dignity and rights”.*

### International instruments

- \* 1948: Universal Declaration of Human Rights
- \* 1966: International Covenant on Civil and Political Rights
- \* 1966: International Covenant on Economic, Social and Cultural Rights
- \* 1970: Convention on the Elimination of All Forms of Discrimination against Women
- \* 1984: Convention against Torture and Other Cruel, Inhuman or Degrading Treatment

The six countries have ratified or signed the instruments presented above, which means they agree to be **legally bound** to the terms of these instruments.

States Parties have to take all measures, including legislative action, for the progressive fulfilment of the rights enshrined in these instruments.



Some international instruments, despite their general nature, contain specific references to persons with disabilities, and fight against the discrimination they are subjected to. They give them special attention and there are **special provisions** for them, especially in the areas of education, vocational training, employment, health care and leisure.

Conscious of the **specificities of the African continent**, African States have adopted a number of Conventions for the protection and promotion of human rights in Africa. The six countries are signatories to these regional instruments that all refer to the specific needs of persons with disabilities. These States have the **obligation** to implement the measures in favour persons with disabilities.

### **International Instruments, with references**

- \* 1958: Discrimination (Employment and Occupation) Convention of the International Labour Organization
- \* 1975: Convention on the Development of Human Resources<sup>1</sup>
- \* 1989: Convention on the Rights of the Child (CRC)

### **Regional Instruments**

- \* 1981: African Charter on Human and Peoples' Rights
- \* 1990 : 1990: African Charter on the Rights and Welfare of the Child
- \* 2003: Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa<sup>2</sup>

## **SPECIFIC INTERNATIONAL AND REGIONAL LAWS ON THE RIGHTS OF PERSONS WITH DISABILITIES**

The Convention on the Rights of Persons with Disabilities is the first historic **legally binding** treaty that addresses the needs of persons with disabilities in a specific and comprehensive manner.

The Convention also introduces a new approach to disability, swinging from the medical model to the **social model** based on Human Rights, where disability is defined as the **interaction between an inaccessible environment and the person**. It is also the first international treaty mentioning sexual and reproductive health.

### **Specific international instruments**

- \* Convention concerning Vocational Rehabilitation and Employment (Persons with disabilities)<sup>3</sup>
- \* 2006: Convention on the Rights of Persons with Disabilities (CRPD)<sup>4</sup>
- \* Optional Protocol to the Convention on the Rights of Persons with Disabilities<sup>5</sup>

Sierra Leone has officially ratified the CRPD on October 4, 2010, and Togo is the only country that has not ratified it yet. However, the process is nearly completed and the Togolese National Assembly has approved the ratification on December 29, 2010.

<sup>1</sup> Ratification by Burkina Faso and Niger.

<sup>2</sup> Niger and Sierra Leone have not ratified the Protocol (signing only).

<sup>3</sup> Ratification by Burkina Faso, Niger and Mali.

<sup>4</sup> Ratification by 5 of the 6 countries. Signing only for Togo.

<sup>5</sup> Ratification by Burkina Faso, Mali and Niger. Signing only for Senegal, Sierra Leone and Togo.

## NATIONAL LEGAL FRAMEWORKS

All Constitutions guarantee equal rights and protection of all **citizens**, including persons with disabilities.

The Constitution of Mali and Senegal do not refer specifically to persons with disabilities; the 4 other countries have in their constitutions **articles** mentioning explicitly the rights of persons with disabilities.

### National Constitutions

- \* Burkina Faso: Article 18
- \* Niger: Article 22
- \* Sierra Leone: Articles 8, 9 and 27
- \* Togo: Article 33

Beyond the Constitution, the 6 countries have put in place various regulations (decrees and orders) for the **effective implementation** of the laws enacted by the State. These regulations will translate the promotion and protection of the rights of persons with disabilities into reality.

In the 6 countries, the laws and decrees dealing directly or indirectly with disability issues are **mainly** focused on two themes, namely **equal opportunity** (non-discrimination) and **social protection** for persons with disabilities.

The laws and decrees are generally oriented towards **three specific areas**:

#### **Education and training:**

Generally, the Education Act of the countries supports the right to education / training for all and provides special facilities, such as specialized training institutions for children / people with disabilities, as well as access to scholarships.

Burkina Faso  
Mali, Niger  
Senegal  
Sierra Leone  
Togo

#### **Employment:**

The Labour Code of the majority of the countries institutes the principle of non-discrimination in employment.

Burkina Faso, Mali, Niger,  
Senegal, Togo

Three countries clearly state that disability cannot be a factor in employment.

Mali, Niger, Togo

One country provides for the adjustment of jobs to the specific needs of persons with disabilities.

Burkina Faso

Other provisions set a legal employment quota or priority access for persons with disabilities in businesses and / or in the civil service.

Burkina Faso, Mali,  
Niger, Senegal, Sierra  
Leone, Togo

However, in the recruitment of public servants, it is usually mentioned that applicants must be physically and mentally fit for the job.

Burkina Faso, Niger,  
Senegal, Togo

### Health:

Some countries have set a legal framework for the detection of disabilities in schools and for prevention in the workplace through measures against occupational hazards and for safety and hygiene at work.

Niger, Senegal

Regarding the right to health for persons with disabilities, some countries have established a disability card for reduced health care costs or free medical care.

Burkina Faso, Mali

Three other countries are putting in place a special card that will reduce health care costs or grant free medical care for people with disabilities.

Niger, Senegal,  
Sierra Leone

In one of the countries, free medical care for people with disabilities and their families has been established (implementation in the capital only).

Niger (Niamey)

Other regulations have led to special provisions for people with disabilities in several areas:

### Fees and taxes:

In three countries, there are provisions for tax reduction / exemption for persons with disabilities.

Burkina Faso, Mali,  
Senegal

### Penal Code:

In one country, special measures have been enacted to promote access to justice for PWDs, including the possibility to use a sign language interpreter in court.

Mali

Some countries consider rape upon a PWD as an aggravating factor leading to a more severe punishment.

Burkina Faso, Senegal

### Accessibility and transport:

Two countries highlight access to public buildings and transport for persons with disabilities, with tax breaks designed to encourage accessibility measures.

Burkina Faso, Niger

The Urban Code or Building Code provides for the taking into account of persons with disabilities in the construction of new buildings.

Burkina Faso, Senegal

Holders of the disability card can get a reduction of travel expenses.

Burkina Faso

### Voting:

Three countries have set up a system allowing persons with disabilities to be assisted by another person if they are unable to vote on their own.

Burkina Faso, Senegal,  
Togo

**Sports & Recreation:**

People with disabilities who hold a disability card can get reduction of expenses related to leisure activities.

There is a law providing for the promotion of physical activities and sports for persons with disabilities.

**Disability perception:**

One country requires government to develop a program to inform citizens on disability and promote a positive attitude.

**National Day:**

A national day of persons with disabilities has been instituted to give them a platform for visibility.

Burkina Faso

Niger, Senegal

Niger

Burkina Faso, Mali,  
Niger, Senegal



**ACCESSIBILITY AND  
TRANSPORT**



**VOTING**



**SPORTS &  
RECREATION**

## CONCLUSION

All six countries of the DECISIPH project (Burkina Faso, Mali, Niger, Senegal, Sierra Leone and Togo) have ratified the general international and regional instruments for the promotion and protection of human rights, including the rights of persons with disabilities. The majority of countries have also ratified international instruments specific to persons with disabilities, such as the **Conventions of the International Labour Organisation**. As regards the International Convention on the Rights of Persons with Disabilities, five of the six countries have ratified it. **The National Assembly of Togo has authorized its ratification on December 29, 2010.**

At the national level, there are **few specific laws** for the promotion and protection of the rights of persons with disabilities. However, in a number of general laws, there are specific articles on disability rights, but most of them are **not subjected to an implementing order**, and they are therefore not really effective. Moreover, even when orders for the effective implementation of the laws exist, **information is generally not disseminated** among disabled people's organizations in particular and the public in general, which does not allow stakeholders to claim these disability rights.

In general, the laws concern three main areas: **education and vocational training, employment and health**, with specific measures for **children and teens with disabilities**.



**EDUCATION**



**EMPLOYMENT**



**HEALTH**

By ratifying international and regional instruments for the promotion and protection of human rights in general and those of people with disabilities in particular, States commit themselves to make their domestic laws **comply with** these instruments. However, this is not the case for most of the laws in force in the six countries, and some of them **even close their eyes to discrimination** against persons with disabilities, namely in employment, which is in total contradiction with the CRPD.

The discrepancy between international and regional instruments and the substantive law of the countries shows a **lack of commitment** to reform the national legislation, although these countries have undertaken to do it through the ratification of these instruments, especially the International Convention on the Rights of Persons with Disabilities

## TEXT HEADLIGHTS – NATIONAL LEGISLATION

### \* **Burkina Faso:**

- ✓ Framework law for persons with disabilities, ZATU No. 86-005/CNR/PRES of January 16, 1986
- ✓ Act No. 003-2010/AN of January 25, 2010, amending Act No. 014-2001/AN of July 03, 2001 on the electoral code
- ✓ Act No. 012-2010/AN of April 1, 2010 on the protection and promotion of persons with disabilities

### \* **Mali:**

- ✓ Persons with Disabilities Bill (2009)
- ✓ Act No. 99-046 on the education law (Articles 46 and 47)

### \* **Niger:**

- ✓ Ruling No. 93-012 of March 2, 1993 as amended and supplemented by Ruling 028 of May 28, 2010
- ✓ Decree No. 2010-637/PCSRD/MPPF/PE of August 26, 2010 laying down procedural requirements for Ruling 93-012 of March 2, 1993 as amended and supplemented by Ruling 028-2010 of May 28, 2010

### \* **Senegal:**

- ✓ Social guidance law of July 26, 2010 on the promotion and protection of persons with disabilities

### \* **Sierra Leone:**

- ✓ Persons with Disabilities Bill (2007)

### \* **Togo:**

- ✓ Act of April 23, 2004 on the social protection of persons with disabilities (no implementing decree)