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**HelpAge International submission on the Draft General Comment No. 5 (2017)**

**Article 19: Living independently and being included within the community**

**Paragraphs 24, 28, and 47: Older persons with disabilities’ right to right to live independently and within the community**

As part of their right to live independently and within the community, older persons with disabilities have the right to choose where and with whom they live, the type of care and support they receive and who provides it. Interdependent with this right is the right to a continuum of quality, person-centred, affordable and appropriate health and other support and care services which are available and accessible in the residence of choice.

An older person with disabilities choosing a place of residence may choose a form of accommodation in which one lives with others, with shared facilities and social support and with nursing and/or other forms of health-related support, including palliative or end of life care. The right to a continuum of health care and other support for an older person with disabilities must include access to residential care for those who prefer this option. A continuum of support also requires that a range of options are available providing the spectrum of support to maintain their level of functional independence in daily life. Other older persons with disabilities may choose to live on their own or with family members, and have a right to the same continuum of services and appropriate support in these particular settings.

Paragraph 24 of the draft General Comment No. 5 [hereafter draft GC5] sets out this right to choose one’s place of residence in line with CRPD Article 19 a). However, other paragraphs of the draft General Comment as framed seem to preclude choices that individuals may wish to make.

In paragraph 28, the role of shared residential settings is limited to transitional, temporary residences. This rules out the possibility of a shared residential setting being a permanent residence of choice for an older person with disabilities, and being treated as such under the law in line with the right to housing. That a residential setting is considered a permanent home is important since it follows that a continuum of support should be provided in the same residential setting so that older persons with disabilities are not forcibly evicted from places that have become their ‘home’ as their support needs change.

In paragraph 47, the concept of living in a shared residential setting is deemed to be at odds with the concept of living independently and in the community. It implies that if one chooses to live in a shared residential setting, the State no longer has an obligation to ensure one’s right to live independently and within the community within that shared residential setting. We challenge this restriction of the right: older persons with disabilities have the right to live independently and within the community in any and every setting that they choose to live in, including shared residential settings.

Choosing to live with others and to receive the support you require in a shared residential setting is not at odds with the concept of de-institutionalisation when institutionalisation refers not to a ‘particular setting’ but to ‘loss of control due to the imposition of a certain living arrangement’ (Draft GC 5 paragraph 15 c).

The emphasis of ‘de-institutionalisation’, therefore, should not be to deny the right to live in shared residential settings, but should be on ways in which, under these circumstances, older persons with disabilities can live independently by exercising their autonomy and control over all their living arrangements, including choice of appropriate support. This is interdependent with state obligations to regulate and ensure quality standards of, and access to, person-centred care in residential settings.

Similarly, measures should be taken to ensure older people living in shared residential settings are not isolated or segregated from the community but have access to and are part of the wider community in which their residence is located. When long-term residential settings are community based and allow the residents to remain integrated in the community, they comply with Article 19, and therefore older persons with disabilities living in these circumstances fall under its scope.

The current draft GC 5 fails to adequately address the rights of older persons with disabilities to live independently and within the community in the place of residence of their choice. Failure to do so risks both limiting the rights of older persons with disabilities and excluding the particular circumstances and choices of older persons with disabilities from the implementation of the Article 19 by State Parties and the monitoring thereof by the CRPD Committee.

**Recommended amendment to paragraph 28**

Literal (b) specifies various individualised services which fall within this category of support services. In-home services are services which are delivered to the home of the person. Residential services are services which offer persons with disabilities support as well as a place to live. They can be useful when persons with disabilities make the transition from institutions to independent and community living and might be necessary for persons who have lived in institutional settings for a long time and need to find out how they prefer to live. [**ADD:** **An older person with disabilities may choose a form of accommodation in which one lives with others, with shared facilities and social support and with nursing and/or other forms of health-related support, including palliative or end of life care. Residential settings may be necessary to ensure people with disabilities can live independently in the community and must ‘support living and inclusion in the community’ and ‘prevent isolation or segregation from the community’ in order to be in line with Article 19.**

**]** Other community support services include personal assistance services or similar person-directed/user-led support.

**Recommended revision to paragraph 47**

The right to decide where, how and with whom to reside also embraces the decision to live in [**DELETE**~~: institutional~~] **[ADD: residential]** care settings, because there is no obligation to live under a particular living arrangement. [**DELETE**~~: However, as article 19 of the Convention is about being included in the community, the right to choose a residential setting, institutional setting does not correspond with a states’ party duty to maintain institution or to ensure the availability of residenjtrial support services.~~] [**ADD**: **States have an obligation to take steps to ensure that persons with disabilities who choose to live in community-based residential settings enjoy their right to live independently by exercising their autonomy and control over all their living arrangements, including choice of appropriate support, and enjoy their right to be included in the community by being fully integrated into the community.]**

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