*Written Contribution regarding Draft General Comment No.5 (2017)*

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

Thursday, 29 June 2017

**Introduction**

Par. 1: Proposed addition after “living arrangements” and prior to “and community infrastructure”:

**“or a strictly medical and rehabilitation context**”

Par. 12: Proposed addition at the end of the paragraph:

**“Article 28 of the CRPD further adds to this requiring an adequate standard of living for persons with disabilities and their families including continuous improvement of their living conditions.”**

Par. 14: Proposed additions to existing barriers:

* (added to f.) after “negative attitudes“: “**including the prevalence of ableist approaches“**
* (added to g.): **“including the lack of undestanding of independence and autonomy as rights and equally necessary and equally owned by persons with disabilities and the need to challenge the status quo of institutionalization of specific categories of persons with disabilities**
* (added to i.) after “persons with disabilities“:“**and article 19 compatible allocation of human and financial funds“**
* “**the prevalence of approaches of persons with disabilities as a category/categories rather than as individuals“**
* “**time wasted as a result of institutionalization and deprivation of article 19 rights from a young age or for many years“**

**II. Normative content of Article 19**

**A. Definitions**

Par. 15(a): Proposed addition after “individuals with disabilities are” and prior to “to exercise control”:

**“provided with all necessary means that enable them”**

**B. Article 19, chapeau**

Par. 19: Proposed addition at the end of paragraph:

**“Such denial or limitation of the right to independent living could lead to**

**discrimination on the ground of disability under this provision (see. Par. 17)”**

Par. 21: Proposed addition at the end of paragraph:

**“Equally, elderly persons with disabilities in a majority of younger persons with disabilities**

**might be treated as children or without the necessary respect to their dignity.”**

Par. 23: Proposed addition after “support”:

**“while language barriers and culture differences**

**should not be allowed to impede such equality”**

**C. Article 19 (a)**

Par. 25: Proposed addition after “outside of institutions” and prior to “if housing is inaccessible”:

**“if support only addresses specific categories of persons with disabilities**

**leaving behind those requiring most intensive support”**

Par. 26: Proposed addition at the end of the paragraph:

**“Induction and life in institutions, even spending time in institutions on a**

**daily basis inevitably lead to limitations of the right to legal capacity and**

**respect for the will, decisions and preferences of persons with disabilities”.**

**D. Article 19 (b)**

Par. 31: Proposed addition after “inclusion and participation”:

“**with respect to the will, preferences and personality of each person with disabilities.”**

**F. Core Elements**

Par. 40: Proposed addition at the end of (a):

**“or impairment/disability assessments, evaluation or eligibility procedures”**

Other additions relevant to Core Elements:

**“It must be the services for independent living that must**

**reach and suit persons with disabilities not the other way round”**

**“Categorizations of persons with disabilities and the number of persons with each**

**disability must not be used to limit or negate access to the right of independent living.”**

**“To achieve maximum individual autonomy and independent living must be born in mind as a central objective with respect to each person’s identity, personality, uniqueness and preferences”**

**“Measures to fulfill the requirements of article 19 such as the provision of services within specific settings must not lead to the deprivation of any other right (e.g. right to inclusive education)**

**III. Obligations of States parties**

Par. 41: Proposed addition following “is a classic social right” and prior to “. Article 19 (c)”:

“**that is, assessment of services not of persons”**

Par. 42: Proposed addition following “(art. 2(1) ICESC)” and prior to “While full realization”:

**“and plan ahead to cover any potential financial or other resources gaps”**

**A. Obligation to respect**

New paragraph, following par. 49:

**“The obligation to respect does not only include a negative aspect.**

**Its positive aspect requires states to take all necessary measures to ensure that**

**all rights secured by article 19 are not violated by the state or by private entities.”**

Par. 52: Proposed addition following “certain services.” and prior to “States parties should prohibit”:

**“This duty complies with the duty to create truly inclusive services**

**and services compatible with the universal design principle.”**

**C. Obligation to fulfill**

Par. 55: Proposed addition at the end of the paragraph:

**“The preservation of structures and procedures incompatible with article 19 notwithstanding the reactions and experiences complained of by persons with disabilities, their families and their representative organizations further aggravates the violation of the present obligation to fulfill. Consultations with persons with disabilities and their organizations must be essential. ”**

Par. 56: Proposed addition after “is necessary” and prior to “It is also important that”:

**“To leave this sector in the hands of voluntary organizations with financial support instead of substantial involvement of the government is not an accepted solution for the fulfillment of this duty as no responsibilities arise out of volunteerism and state responsibility must be clearly established.”**

Par. 57: Proposed addition at the end of the paragraph:

**“The multiplicity of requirements of persons with multiple disabilities must in no way be neglected or compromised by service providers or due to established hierarchies between various categories of persons with disabilities.”**

**IV. Relationship with other provisions of the Convention**

Par. 70: Proposed addition after “affirmative action” and prior to “Persons with disabilities who are facing discrimination”:

**“However, systematic omission to address the service requirements of specific categories of persons with disabilities may amount to discrimination in combination with article 19.”**

Par. 75: Proposed addition at the end of the paragraph:

**“Practices based on ableist views and ideas construed on assumptions about the abilities, skills and potential of persons with disabilities such as that they may not be educated or that they can never reach greater independence and express their wishes are examples of negative stereotypes, misconceptions and harmful practices under article 8”**

Par. 76: Proposed addition at the end of the paragraph:

**“The availability and accessibility of equipment, communication and technologies**

**utilized for the purposes of article 19 are important aspects articles 9 and 19 combined.”**

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