

## Article 19 new text from the IDC

### Article 19

**LIVING (DELETE: "INDEPENDENTLY") AND BEING INCLUDED IN THE COMMUNITY (ADD: "WITH CHOICES EQUAL TO THOSE OF OTHERS")**

States Parties to this Convention (ADD: "recognize the right of all persons with disabilities to live in the community with choices equal to those of others and") shall take effective and appropriate measures to facilitate full enjoyment by persons with disabilities of their freedom of choice (REPLACE "living independently and full inclusion and participation" BY "including to choose their residence, to live, be fully included and participate") in (ADD: "all aspects of") the community, including by ensuring that:

*(JUSTIFICATION: The chapeau does not clearly affirm that all persons with disabilities have a right to live in the community. Non-recognition of this right accounts for the high number of persons with disabilities still living in institutions. Indeed, the Chair stated in his report from the end of the Sixth Session, that "the key to this draft article... [is] the right of every person with disabilities to live in the community".*

*The chapeau is also too ambiguous in the use of Freedom of Choice. In addition, the focus on independence could negatively impact on those who require support to live in the community)*

- (a) persons with disabilities have the opportunity to choose their place of residence and where and with whom they live on an equal basis with others and are not obliged to live in a particular living arrangement. (ADD: "In no case shall a child with a disability be institutionalised on the basis of his or her disability;")

*(JUSTIFICATION: It is important to add an additional paragraph here stressing that children shall not be institutionalised on the basis of their disability. The current paragraph (a) provides that people with disabilities are not obliged to live in a particular living arrangement, but the situation for children is more complex. Children, generally, lack the right to any control over where they live. It is imperative to challenge the presumption by both professionals and parents that institutional care is the most appropriate accommodation for children with disabilities.)*

- (b) persons with disabilities have access to (ADD: "and information about community services, including support services and that") a range of in-home, residential and other community support services, including personal assistance (ADD: "assistive technologies and peer support") necessary to support living and inclusion in the community, and to prevent isolation or segregation from (ADD: "and within") the community (ADD: "are provided by States Parties in a manner that respects the autonomy, individuality and dignity of persons with disabilities");

*(JUSTIFICATION: The current text does not require States to provide supports and services or information about them and does not recognize the right of the person to control these supports and services.)*

- (c) community services and facilities (ADD: and public programs) for the general population are available on an equal basis to persons with disabilities and are responsive to their needs.
- (d) (NEW (d) "resources required to realize this right are allocated, based on the individual's choice, in a fair and equitable manner"
- (e) (NEW (e): "provision of mainstream services provided for children, including child protection services, are fully adapted, and equally accessible and available to children with disabilities.")

*(JUSTIFICATION: There should be an obligation to ensure that all mainstream services for children are adapted, and equally accessible to children with disabilities in order to ensure their optimum social inclusion within their communities. In other words, instead of the emphasis in Article 23 of the CRC to the need for special provision for children with disabilities, the emphasis is on the importance of rendering mainstream services to be more inclusive. Inclusion in the community relies on the provision of inclusive services to which children with disabilities have access. Services should focus on the realisation of human rights of children rather than on the child's impairment and responding to the 'special needs' that must be catered for to enable the child to adapt more effectively. This article could be strengthened through a provision, which places emphasis on the fundamental importance of promoting the development of inclusive environments, which are accessible and available to all children including those with disabilities. It is consistent with the entire philosophy of this Convention, but seeks to ensure that in services, which apply exclusively to children, the same principles apply.)*