**Submission of the Government of Estonia with regard to the draft General Comment on Article 19 of the Convention – Living independently and being included in the community**

Estonia presents its compliments to the Committee on the Rights of Persons with Disabilities and appreciates the opportunity to comment on the draft General Comment on Article 19 of the Convention. Estonia welcomes the Committee’s work on the rights of people with disabilities in regards to living independently and being included in the community.

Estonia ratified the Convention on the Rights of Persons with Disabilities on 30 May 2012, and the Government would first like to underline the importance it attaches to the Convention and confirm its commitment to fully comply with Estonia’s treaty obligations. Estonia is committed to the protection of the people with disabilities and is actively workings towards ensuring higher independence and inclusion in the community of people with disabilities. To support the transition from institution-based services to community-based services and ensure dignified independent living in the EU, Estonia is organising an expert-level conference on DI (dignity + independent living=DI) during its Presidency of the European Council. However, there are aspects of the current draft which Estonia would encourage the Committee to consider further before issuing a final General Comment on Article 19.

Firstly, we would like to question the paragraphs where the special treatment of youth is emphasised. We believe that all age groups should receive support that is in accordance to their age and needs. Also, all age groups should be able to benefit from innovative forms of support and accessible services. Due to demographic situation in Europe, we believe issues regarding elderly are especially important and it is crucial that elderly people with special needs could also be active and social. As stated in paragraph 23, the right to living independently and being included in the community should encompasses protection of all persons, regardless of their age, gender, belonging to ethnic groups, linguistic and/or religious minorities.

Secondly, the draft General Comment has very strict approach towards sheltered work. While we agree that employment in open labour market is generally preferred and with individualized support and personal assistance usually possible, we believe that sheltered workshops can serve as a gateway service to open labour market for severely disabled people and are can sometimes be the only viable option. However, sheltered workshops should be seen as part of the larger process and not as an end solution.

Thirdly, it is said that “investing money obtained in the framework of international cooperation into development of new residential institutions is not acceptable as it leads to segregation and isolation of persons with disabilities” and it is recommended to “...adopt clear and targeted strategies for de-institutionalization with specific timeframes and adequate budgets in order to eliminate **all forms of** isolation, segregation or institutionalization of persons with disabilities.” We agree that developing community-based services is crucial and all people with disabilities should be able to live as independently as possible. However, we believe that small family-type group homes, which are actively linked to local communities, where sufficient support is available, could be acceptable as well for enrich service environment and support opportunities. The goal should always be to reach greater independence and inclusion in the community. At the same time, the severity of disabilities needs to be taken into account and we believe that in some cases, family-type group homes can enable providing best possible support.

Lastly, with regard to comments in relation to the equal recognition before the law and active legal capacity, Estonia hereby refers to the interpretative declaration made upon ratification: “The Republic of Estonia interprets article 12 of the Convention as it does not forbid to restrict a person’s active legal capacity, when such need arises from the person’s ability to understand and direct his or her actions. In restricting the rights of the persons with restricted active legal capacity the Republic of Estonia acts according to its domestic laws.” In the opinion of the Estonian Government, this declaration and the corresponding practice are in full conformity with the wording of Article 12. Estonia retains the position that there are circumstances under which it is necessary to restrict the active legal capacity of disabled persons. It is in the interest of the disabled person if he or she is permanently unable to understand or direct his or her actions due to a mental illness, mental disability or other mental disorder. In such cases it is appropriate to appoint a guardian to the disabled person by a court. In Estonia, there are a number of safeguards in place to prevent abuse of guardianship. A court will authorise a guardian to act only to the extent in which the person is unable to understand or direct his or her actions. A forensic psychiatric expertise is carried out regarding the person’s ability to make a decision on guardianship and the person of the guardian and, if possible, such decisions by the person are taken into account. Certain transactions by the guardian with the property of the person who has been appointed a guardian need prior authorisation by a court. The person who has been appointed a guardian may appeal against the court ruling on the appointment of a guardian. A guardian may not be appointed for longer than 5 years. These safeguards apply to all people with disabilities.

Based on the previously highlighted points, Estonia recommends that the draft General Comment should be reconsidered on the mentioned accounts.