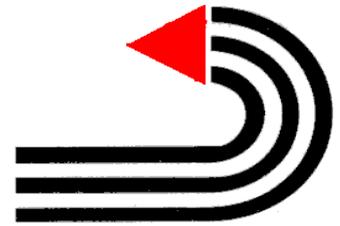


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Interessenvertretung  
Selbstbestimmt Leben in  
Deutschland e.V. - ISL

ISL e.V. \* Krantorweg 1 \* 13503 Berlin

Mitglied bei  
„Disabled Peoples’ International”  
- DPI -

Berlin, 2016-02-28

## **Submission**

**of „Interessenvertretung Selbstbestimmt Leben in Deutschland e.V. –  
ISL“ (= DPI Germany)**

**relating to**

### **Article 19 – Living independently and being included in the community**

DPI Germany welcomes the opportunity to underline the problems of implementing the regulations of article 19 CRPD in Germany.

DPI Germany has been a member of the German CRPD alliance which has already described the areas of serious concern in its Alternative Report of 2013 and its submissions to the CRPD Committee in 2014 and 2015. Unfortunately yet the situation hasn't improved.

### **Comments on sub-paragraph (a)**

Particularly persons in need of extensive support are often pushed towards moving into a residential facility for financial reasons, instead of being enabled to live the life that they would like to live, namely, in their own apartment with assistance. In this way, these individuals do not have a **free choice of their place of residence** as CRPD Art. 19 (a) stipulates. Agencies only cover expenses for out-patient social services if this service does

not entail “disproportionate additional costs” when compared to a “reasonable” [zumutbar] in-patient option (such as living in a care facility; see clause on additional costs [Mehrkostenvorbehalt], § 13, Para. 1(3) SGB XII). The agencies determine what is “disproportionate” and what is “reasonable”. In this sense, the clause on additional costs violates the right to freely choose the place of residence, and therefore goes against the UN CRPD.

The CRPD Committee clearly pointed out this issue in its concluding observations for Germany (CRPD/C/DEU/CO/1) from April 2015. But instead of following these recommendations the German government is now elaborating a new law which makes the situation even worse. With the existing laws – which are not in line with the CRPD as described above – we at least could argue and often we could convince the judges not to be forced to live in institutions. With the planned new law we could be forced to live at the place where the costs for the needed support are at the lowest level with no means to struggle against this imposition. This would mean that persons who now live with personal assistance 24 hours a day could be forced to move from their own home into an institution.

### **Comments on sub-paragraph (b)**

There is a great need for a dense network of services that is based on the beneficiaries’ **living and social environment**, such as assistance for communication, mobility and participation, or independent counseling, all of which are essential for people with disabilities who want to live independently. This is especially the case in rural areas. As a result, it is often impossible for individuals to freely choose their place of residence. However, if disabled persons are not provided with adequately available assistance, they are likely to become dependent on public institutions or on relatives and other personal contacts, who are then in charge of compensating for the lack of paid assistance.

The German government is obliged to improve the infrastructure in order to implement the regulations of the CRPD. But nothing happens in this respect. On the contrary in the above mentioned current legislative procedure the government refuses to codify the right to personal assistance.

### **Comments on sub-paragraph (c)**

Although the German government has several times been prompted by the UN to oblige **private businesses to accessibility** the German government doesn’t take any action in this respect. Therefore, for example, accessibility is still not an obligatory condition for medical practices in order to obtain their license. Consequently only few medical practices are accessible for persons with disabilities.

## Summary

- Human rights of persons with disabilities are only realized when there are no additional costs.
- The German government fears that persons with disabilities could insist on realizing their human rights like the right on personal assistance. Therefore it refuses to codify these requirements in German laws.
- The German government doesn't take any action that could be inconvenient for private businesses. Thus there are no substantial improvements regarding accessibility.

## Overall impression

We attended the negotiations of the CRPD and all actions the German government has taken since. We get more and more the impression that the German government likes to play act: On the international platform it presents itself as great protector of human rights. But as soon as it should take actions to implement those human rights in domestic laws there are other issues that are more important. The regulations of the CRPD are not understood as legal binding but only as recommendations. So their implementation is always subordinate.

Another barrier to implement the CRPD is ableism. We have got the impression that human rights violations against persons with disabilities are taken less serious than comparable violations against other persons.



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