

Workshop 1
Exchange of Views and Preliminary Case Study on
the Scope of Application of the UNCRPD

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Article 6 UNCRPD (Convention on the Rights of Persons with Disabilities)

Microland is a country which has signed and ratified the UNCRPD. Microland has 10 million inhabitants, of whom 15 per cent have disabilities. Women and girls with disabilities account for 45 per cent of the population group with disabilities. Microland's Ministry of Women's Affairs wants to develop an action plan to implement Article 6 of the UNCRPD and asks you to prepare an expert opinion on the question of what measures should be adopted and in what fields of action.

Article 12 UNCRPD

Microland is a country which has signed and ratified the UNCRPD. Under the country's national statutory provisions, persons with disabilities may be placed under tutelage on the basis of a court order if a medical examination has shown that the persons concerned are not able to "freely express" their will. The tutor plays the role of a representative. The will expressed by the tutor replaces the will expressed by the ward. However, only in exceptional cases will the ward be declared to have no legal capacity. In cases of doubt, the will expressed by the tutor will take precedence.

The country's parliament wants to revise the national tutelage provisions. Before a bill is drafted, you are asked the following questions as an expert:

1. Is it still admissible under Article 12 UNCRPD to appoint a legal representative, or are tutors only allowed to provide support in decision-making?
2. If so, are there fields in which legal representation is absolutely forbidden?
3. If not, what should be done about coma patients?

Article 24 UNCRPD

Microland is a country which has signed and ratified the UNCRPD. Microland is a federation composed of 10 states. The legislation in Microland is subject to competing and exclusive jurisdiction. Education law falls within the exclusive competence of the federal states. Microland's federal government wants to improve the low inclusion rate of pupils with disabilities in Microland (below 20 per cent) and has launched an excellence initiative to promote inclusive education in Microland. Each federal state which amends its education law in line with Article 24 UNCRPD receives a federal subsidy of €3 billion.

The government of the federal state of Altenberge wants to participate in this initiative. Before it drafts a bill to this effect, the government asks you the following questions as an expert:

1. Will all the special schools for disabled pupils have to be closed in order to implement Article 24 UNCRPD?
2. Is the UNCRPD applicable at all to federal states in fields in which federal states have exclusive competence?

Article 19 UNCRPD

Microland is a country which signed and ratified the UNCRPD. In Microland, most people with mental or psycho-social disabilities live in homes (with 30 to 2,000 residents) or so-called sheltered residential groups (on average, 8 to 15 residents). The federal government has decided to implement Article 19 UNCRPD and intends to abolish all homes and sheltered residential groups within a period of 15 years. Instead, the federal government wants to focus on promoting self-determined forms of living in a community. To this end, the federal government wants to conclude a solidarity pact with the local authorities, which will undertake to make all local institutions accessible step by step and to create the necessary incentives for local private service providers. Federal social benefits and subsidies for homes and sheltered residential groups will be frozen or abolished. The parents' association "*Sheltered Living*" wants to prevent the implementation of these plans by means of a legal opinion and asks you whether it is not true that the UNCRPD obliges State Parties to the Convention to maintain homes and sheltered residential groups.