

disabilities to establish and act, formally or informally, within their own organizations and initiatives, including through cooperation with adults and other children and young persons.

B. Distinction between organizations of persons with disabilities and other civil society organizations

13. Organizations of persons with disabilities should be distinguished from organizations “for” persons with disabilities, which provide services and/or advocate on behalf of persons with disabilities, which, in practice, may result in a conflict of interests in which such organizations prioritize their purpose as private entities over the rights of persons with disabilities. States parties should give particular importance to the views of persons with disabilities, through their representative organizations, support the capacity and empowerment of such organizations and ensure that priority is given to ascertaining their views in decision-making processes.

14. A distinction should also be made between organizations of persons with disabilities and civil society organizations. The term “civil society organization” comprises different kinds of organizations, including research organizations/institutes, organizations of service providers and other private stakeholders. Organizations of persons with disabilities are a specific type of civil society organization. They may be part of a mainstream umbrella civil society organization and/or coalitions that do not necessarily advocate specifically for the rights of persons with disabilities, but can support in mainstreaming their rights in the human rights agenda. In accordance with article 33 (3), all civil society organizations, including organizations of persons with disabilities, have a role to play in monitoring the Convention. States parties should give priority to the views of organizations of persons with disabilities when addressing issues related to persons with disabilities, and develop frameworks to request civil society organizations and other stakeholders to consult and involve organizations of persons with disabilities in their work related to the rights enshrined in the Convention and other topics, such as non-discrimination, peace and environmental rights.

C. Scope of article 4 (3)

15. To implement their obligations under article 4 (3), States parties should include the obligation to closely consult and actively involve persons with disabilities, through their own organizations, in legal and regulatory frameworks and procedures across all levels and branches of Government. States parties should also consider consultations with and the involvement of persons with disabilities as a mandatory step prior to the approval of laws, regulations and policies, whether mainstream or disability specific. Therefore, consultations should begin in the early stages and provide an input to the final product in all decision-making processes. Consultations should include organizations representing the wide diversity of persons with disabilities, at the local, national, regional and international levels.

16. All persons with disabilities, without any form of exclusion based on the type of impairment, such as persons with psychosocial or intellectual disabilities, can effectively and fully participate without discrimination on an equal basis with others. The right to participate in consultations, through their representative organizations, should be recognized on an equal basis for all persons with disabilities, irrespective of, for example, their sexual orientation and gender identity. States parties should adopt a comprehensive anti-discrimination framework to ensure the rights and fundamental freedoms of all persons with disabilities, and withdraw legislation criminalizing individuals or organizations of persons with disabilities on grounds of sex, gender or the social status of its members and denying them their rights to participate in public and political life.

17. The legal obligation of States parties to ensure consultations with organizations of persons with disabilities encompasses access to public decision-making spaces and also other areas of research, universal design, partnerships, delegated power and citizen control. Furthermore, it is an obligation that includes global and/or regional organizations of persons with disabilities.

1. Issues relating to persons with disabilities

18. The phrase “concerning issues relating to persons with disabilities”, as referred to in article 4 (3), covers the full range of legislative, administrative and other measures that may directly or indirectly impact the rights of persons with disabilities. The broad interpretation of issues relating to persons with disabilities allows States parties to mainstream disability through inclusive policies, ensuring that persons with disabilities are considered on an equal basis with others. It also ensures that the knowledge and life experiences of persons with disabilities are considered when deciding upon new legislative, administrative and other measures. This includes decision-making processes, such as general laws and the public budget or disability-specific laws, which might have an impact on their lives.

19. Consultations under article 4 (3) prevent States parties from engaging in any act or practice that may be inconsistent with the Convention and the rights of persons with disabilities. In cases of dispute about the direct or indirect impact of the measures under discussion, it falls to the public authorities of the States parties to prove that the issue under discussion would not have a disproportionate effect on persons with disabilities and, therefore, that no consultation is required.

20. Examples of issues directly affecting persons with disabilities are deinstitutionalization, social insurance and disability pensions, personal assistance, accessibility requirements and reasonable accommodation policies. Measures indirectly affecting persons with disabilities might concern constitutional law, electoral rights, access to justice, the appointment of the administrative authorities governing disability-specific policies or public policies in the field of education, health, work and employment.

2. “Closely consult with and actively involve”

21. To “closely consult with and actively involve” persons with disabilities through their representative organizations is an obligation under international human rights law that requires the recognition of every person’s legal capacity to take part in decision-making processes based on their personal autonomy and self-determination. Consultation and involvement in decision-making processes to implement the Convention, and in other decision-making processes, should involve all persons with disabilities and, when necessary, supported decision-making regimes.