

**Convention on the
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**On Public Spending and the Rights of the
Child (Article 4)**

FIRST DRAFT

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“States Parties shall undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognized in the present Convention. With regard to economic, social and cultural rights, States Parties shall undertake such measures to the maximum extent of their available resources and, where needed, within the framework of international co-operation.

Convention on the Rights of the Child (art. 4)

I. Introduction

1. This General Comment seeks to ensure States’ application of article 4 of the Convention on the Rights of the Child and its three Optional Protocols, in relation to public spending. The General Comment identifies States’ obligations to ensure sufficient, effective, efficient and equitable public spending to respect, promote, protect and fulfil the Convention and Optional Protocols. More specifically, ensuring public spending to realize the rights of boys and girls, especially those in vulnerable situations, entails obligations to:
 - Assess the macroeconomic, fiscal and child rights situation; consider fiscal, budget and child related laws, policies and programmes; mobilize resources and formulate budgets.
 - Provide an enabling environment for the legislature to oversee and enact public budgets, including the parts that directly and indirectly affect the rights of boys and girls.
 - Execute budgets by making sure budgeted funds reach where they are to be spent, spending them and reporting on actual expenditures.
 - Report on, evaluate and audit budgets.
 - Provide enabling environments for State officials and civil society, including boys and girls, to actively monitor and meaningfully participate and interact in the budget processes - through transparent, responsive and accountable public financial management systems.

A. Background

2. The General Comment was informed by consultations held by the Committee on the Rights of the Child with representatives of States, the United Nations, non-governmental organizations, and 2693 children from 71 different countries – through surveys, meetings and regional consultations in Asia; Europe; Latin America and the Caribbean; Middle East and North Africa; and Sub-Saharan Africa.
3. This General Comment builds on general comment no. 5 on General Measures of Implementation of the Convention (2003), which says that the various elements of the concept “general measures of implementation” are complex and that the Committee on the Rights of the Child is likely to issue “...*more detailed general comments on individual elements in due course...*”. One of those elements is the link between article 4 of the Convention and public spending. This General Comment also builds on the Day of General Discussion on “*Resources for the Rights of the Child: Responsibility of States*” held by the Committee in 2007.
4. In all international core treaties there are articles similar to article 4 of the Convention, such as in the International Covenant on Civil and Political Rights (article 2.1)¹ the

¹ *Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.*

International Covenant on Economic, Social and Cultural Rights (article 2.1)², and the Convention on the Rights of People with Disabilities (article 4.2)³. General comments issued in relation to those provisions should be seen as complementary to this General Comment.

5. The Committee recalls regional human rights treaties that cover the rights of the child, such as the African Charter on the Rights and Welfare of the Child; African Charter on Human and Peoples' Rights; American Convention on Human Rights; Additional Protocol to the American Convention on Human Rights in the Field of Economic, Social, and Cultural Rights; and European Social Charter.
6. The Committee also underlines the importance of the United Nations Convention against Corruption, which requires States to implement anti-corruption measures related to their laws, institutions and practices. Such measures can ensure availability of for the implementation of the rights of boys and girls.
7. The Committee underlines that this General Comment equally concerns the management of States' public financial resources in relation to international cooperation – such as for example programme, sector or budget support; and south-south or inter-regional cooperation. In this regard the Committee recalls the *Paris Declaration on Aid Effectiveness* (2005), *Accra Agenda for Action* (2008) and *Busan Partnership Agreement* (2011). The Committee also recalls the *United Nations Statement of Common Understanding on Human Rights Based Approaches to Development Cooperation and Programming* (2003), which amongst other states that “All programmes of development cooperation, policies and technical assistance should further the realization of human rights as laid down in the *Universal Declaration of Human Rights* and other international human rights instruments”. The Committee further recalls the *Third International Conference on Financing for Development* (Addis Ababa, Ethiopia, July 2015) and the *Post-2015 Summit* (New York, September 2015)...
8. The Committee is mindful of the relevance to the General Comment of existing and evolving national, regional and international standards related to public financial management, provided that they do not constitute a contradiction to the Convention.
9. Given that all children's rights can be affected by public spending, this General Comment does not examine every pertinent article of the Convention and its Optional Protocols. Instead it seeks to provide States with a framework for respecting, promoting, protecting and fulfilling the Convention in relation to public spending.
10. For the purpose of this General Comment, the word “laws” is defined as all child rights (and contextually directly or indirectly) relevant international, regional, national and sub-national treaties and laws. The word “policies” is defined as all contextually relevant public policies, strategies, plans, processes, procedures, regulations, guidelines and statements that affect the rights of boys and girls, or could do so. The word “programmes” is defined as frameworks within which States set out to achieve the aims of its laws and policies. The Committee underlines that it not only entails the laws, policies and programmes concerning specific child rights, but also those that indirectly affect children – such as those related to public budget processes, fiscal issues, infrastructure and labor.

² Each State Party to the present Covenant undertakes to take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures.

³ “With regard to economic, social and cultural rights, each State Party undertakes to take measures to the maximum of its available resources and, where needed, within the framework of international cooperation, with a view to achieving progressively the full realization of these rights, without prejudice to those obligations contained in the present Convention that are immediately applicable according to international law.”

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11. Below, in this introductory chapter, the rationale and objective of the General Comment are presented. Chapter II covers the general obligation and specific rule of article 4 in relation to public spending. In chapter III, a legal analysis is provided of article 4 in relation to public spending and the general principles of the Convention. Chapter IV is dedicated to principles of public spending, and chapter V to the implementation of public spending for the rights of boys and girls. Chapter VI provides guidelines on disseminating the General Comment.

B. Rationale

12. The Committee recognizes the important progress made by State Parties in reviewing and bringing domestic legislation, policies and programmes into conformity with the provisions of the Convention and its Optional Protocols. At the same time the Committee underlines that those laws, policies and programmes cannot be realized without financial resources that are spent in an effective, efficient and equitable way. The Committee has highlighted this in all its general comments, in the conclusions of the above mentioned Day of General Discussion in 2007, and in a range of concluding observations to States.
13. In examining States' reports to the Committee, discussing with States and formulating concluding observations, the Committee has raised concerns and made recommendations related to the sufficiency of public spending to realize the rights of boys and girls. In addition to sufficiency the Committee also stresses the vital importance of effectiveness, efficiency and equity of public spending to achieve children's rights.
14. Making children's rights a priority in public spending, at national and subnational levels, not only contributes to making those rights a reality, but to long lasting positive impacts on future economic growth, sustainable development and social cohesion.
15. Based on the above, the Committee emphasizes that States must take children's rights into consideration throughout the different stages of their budget processes and administrative systems at national and sub-national levels. While recognizing that the details of budget processes differ between States, this General Comment provides some key points of guidance regarding four major stages of the budget process that concern all States.

C. Objective

16. The overall objective of this General Comment is to improve the understanding of the obligations derived from the Convention in relation to public spending for children's rights, so as to strengthen the implementation of those rights. Its specific objective is to promote real change in the way public spending is planned for, enacted, executed and followed-up in order to implement the Convention and the Optional Protocols.
17. The above objective has implications for the measures taken throughout the budget process by the:
- a) National levels of States, including ministries, departments and agencies; N
 - b) Sub-national levels of States and their ministries, departments and agencies; and S
 - c) States at national and sub-national levels that are involved in international cooperation on the donor and recipient sides. S

18. The above objective also has implications for the involvement of the below actors in relation to the budget process. States should, in ways appropriate to their contexts, provide an enabling environment for their active monitoring of and meaningful participation in the budget process, within transparent, responsive and accountable systems at national and sub-national levels.
- a) National and sub-national legislatures; N
 - b) Political parties; P
 - c) The judiciary; T
 - d) Children, and their families; C
 - e) Independent Human Rights Institutions, Children’s Ombudspersons and other similar actors; I
 - f) Civil society – including organizations that provide goods and services concerning or impacting on children; C
 - g) Academia; A
 - h) Media; M
 - i) The private sector involved in outsourced public goods and services, obliged to pay taxes that contribute to resources being available for the implementation of the rights of the child; T
 - j) Persons working with the public budget processes and financial management systems, who develop regulations, manuals and guidelines for that work; and P
 - k) Bilateral, regional, inter-regional, global and multilateral donors and institutions. B

19. The Committee strongly recommends States to contribute to awareness raising and capacity building of relevant public officials and actors mentioned in paragraph 17 and 18 in relation to the content of this General Comment. .

II. A general obligation and a specific rule in relation to public spending

20. The Committee emphasizes that article 4 of the Convention contains a general obligation and a specific rule:

- (a) The **general obligation** is formulated as follows: “States Parties shall undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognized in the present Convention”. This means that States are obliged to take all measures at their disposal – including those related to public spending - to see to it that all the rights of the child of the Convention and its Optional Protocols are respected, promoted, protected and fulfilled. This obligation is “general” in the sense that it refers broadly to all the conceivable T

measures that may be necessary to implement all the rights in the Convention. The meaning of “measures” includes public spending and is further outlined in chapter III.

- (b) T
The **specific rule** of article 4 states: “*With regard to economic, social and cultural rights, States Parties shall undertake such measures to the maximum extent of their available resources and, where needed, within the framework of international co-operation*”. The rule is specific in that it applies to economic, social and cultural rights in particular and makes explicit reference to one critical variable affecting rights implementation, namely available resources. This means that in relation to public spending States are obliged to explain and show that they in practice are taking all measures at their disposal to ensure that available resources are used in an effective, efficient and equitable way and that there are sufficient resources to respect, promote, protect and fulfil the economic, social and cultural rights of boys and girls. The meaning of “maximum extent of available resources” is further outlined in chapter III.
- (c) T
The specific rule is closely related to the concept of “progressive realization”. Although not included in article 4, the concept is present in the articles 24 (health) and 28 (education) of the Convention. The concept is also implicitly included in article 4 through the Committee’s interpretation of the article in general comment no. 5, which states: “*The second sentence of article 4 reflects a realistic acceptance that lack of resources - financial and other resources - can hamper the full implementation of economic, social and cultural rights in some States; this introduces the concept of “progressive realization” of such rights: States need to be able to demonstrate that they have implemented “to the maximum extent of their available resources” and, where necessary, have sought international cooperation.*” Just as “maximum extent of available resources”, “progressive realization” entails States taking all measures to move as fast, effectively and efficiently as possible towards the full implementation of the Convention. It also means that States cannot take deliberate retrogressive measures in relation to articles of the Convention, including in times of economic austerity.
- (d) The Committee notes that there is a difference between the general obligation and the specific rule. The specific rule suggests a distinction between the civil and political rights of the Convention on the one hand and economic, social and cultural rights on the other, while the general obligation does not. However, the Committee recalls that the Convention does not identify which of the rights of the Convention belong to one or the other distinction: “*Enjoyment of economic, social and cultural rights is inextricably intertwined with enjoyment of civil and political rights*”⁴. In this sense, the Committee reiterates that all States have a general obligation to take all necessary measures to implement *all* the rights in the Convention.

⁴ General comment no. 5, para 6.

III. Public spending considerations implied by article 4 and the general principles

A. Legal analysis of article 4 in relation to public spending

1. “State Parties shall undertake”

21. The words “shall undertake” place a strong legal obligation on States. It means that States have no discretion as to whether they would like to fulfil this obligation. This is an intrinsic obligation that can be invoked before a court.
22. Article 4 of the Convention aims to ensure that States do their utmost to respect, promote, protect and fulfil the rights of boys and girls through all measures at their disposal – including through public spending.
23. All levels (national, regional and local) and spheres (ministries, departments, agencies) of States are responsible for guaranteeing the rights of the child – especially those in vulnerable situations - by respecting, promoting, protecting and fulfilling the Convention.
24. The national level of States is also responsible for ensuring that sub-national levels implement the rights of boys and girls within their jurisdictions.
25. States are obliged to ensure that all its levels and spheres have the resources and capacity to realize the rights of the child, even in times of economic crisis.

2. “all appropriate legislative, administrative, and other measures”

26. Article 4 of the Convention contains a general principle stating that States Parties shall undertake all appropriate measures for the implementation of the rights enshrined in the Convention and its Optional Protocols. The measures include reviewing and developing laws, policies and programmes that aim to realize the rights of the child at national and sub-national levels. Public spending may be viewed both as being among “other measures” and as indispensable for legislative and administrative measures.
27. The Committee underlines that States must take all measures to implement the rights of the Convention in a sufficient, effective, efficient and equitable way, and that States are obliged to provide evidence of outcome results for children. It is not enough to show evidence of measures taken to aim to achieve results.
28. The measures include the obligation to set laws, policies and programmes in place, and ensuring that sufficient public spending is available and used appropriately to realize the rights of boys and girls.
29. Undertaking all measures includes ensuring that public spending is systematically planned for, enacted, implemented and accounted for at national and sub-national levels of the State in a manner that advances the rights of the child.

3. “for the implementation of the rights recognized in the present Convention”

30. Implementation measures in relation to public spending include the four stages of the budget process (planning, enacting, executing and follow-up). The budget process should ensure that the rights of boys and girls are a primary consideration and realize necessary public spending to respect, promote, protect and fulfil those rights at national and sub-national levels.

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31. The obligation to respect the rights of the child means that States should not directly or indirectly facilitate, aid and abet any infringement of children's rights. Furthermore, States have the obligation to ensure that all actors respect children's rights, including their freedom of expression. In relation to public spending this means that the State must refrain from interfering with the enjoyment of the rights of the child rights by, for example, discriminating against certain groups of children in budget spending decisions, or without substantial reason diverting resources allocated to be spent on programmes aimed to advance their rights to other areas.
 32. The obligation to promote the rights of the child in relation to public spending means that priority should be given to children's rights in the allocation of resources. To promote the rights of the boys and girls also means that the State must take active steps to ensure that explicit consideration is given to the impact on children in all its public spending decisions, not only those aimed directly at programmes for children. Awareness raising and capacity building may be needed to achieve this. States' public spending should be transparent, informed and include continuous monitoring of impacts on the rights of the child.
 33. States have an obligation to protect against infringements of rights guaranteed under the Convention and the Optional Protocols. It means that States must take all necessary, appropriate and reasonable measures to prevent abuses of children's rights. The obligation to protect the rights of the child in relation to public spending means that States must ensure that financial resources are allocated and spent in an effective, efficient and equitable way to prevent, investigate and remedy harm caused by abuses of children's rights. The State must undertake all necessary, appropriate and reasonable measures to ensure that children's rights are protected.
 34. The obligation to fulfil the rights of the boys and girls requires States to take positive action to respect, promote and protect those rights in order to make them become a reality. To fulfil the rights of the child in relation to public spending States must prioritize children and take adequate measures to further the realization of their rights in conformity with article 4. States must make spending decisions that aim to deliver those rights in a sustainable manner. This includes putting in place measures to increase knowledge and understanding of the Convention and the Optional Protocols within State functions, and foster a culture that respects, promotes and protects children's rights.
 35. The Committee emphasizes the importance of the rights of the child being respected, promoted, protected and fulfilled throughout the different stages of States' budget processes at national and sub-national levels.
 36. To implement the rights of the child includes regular monitoring of public spending to assess the outcomes for boys and girls, and evaluations to draw lessons learned from.

4. "With regard to economic, social and cultural rights, States Parties shall undertake such measures to the maximum extent of their available resources"

37. The Committee reiterates that a minimum core obligation to ensure the satisfaction of, at the very least, minimum essential levels of each of the rights is incumbent upon every State.⁵ Lack of available resources is never a valid argument for States to not comply with this core obligation. The core obligation should always be guaranteed, even in times of economic austerity
38. The Committee on Economic, Social and Cultural Rights further says: "*In order for a State to be able to attribute its failure to meet at least its minimum core obligations to a lack of available resources it must demonstrate that every effort has been made to use all resources that are at its disposition in an effort to satisfy, as a matter of priority, those minimum obligations.*"⁶

⁵ General comment no. 3, para 10, of the Committee on Economic, Social and Cultural Rights.

⁶ General comment no. 3, para 10, of Committee on Economic, Social and Cultural Rights.

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39. In its assessment of whether a State has taken reasonable steps to the maximum of its available resources to implement the rights of the child, the Committee also places great importance on transparent and participative decision-making processes at the national and sub-national levels.
40. States need to review their measures to ensure availability and maximization of resources for the rights of boys and girls – and develop systematic and sustainable measures when existing ones are found to be insufficient.
41. Corruption in State spending amounts to a failure by the State to comply with its obligation to use the maximum of available resources. The Committee emphasizes that transparent, inclusive, participatory and accountable governance and fiscal processes play a critical role in combating corruption and ensuring sufficient, effective, efficient and equitable public spending for realizing children’s rights.
42. The Committee also emphasizes the importance of States allocating resources to prevent and eliminate corruption that impact negatively on the rights of the child, in accordance with the United Nations Convention on Corruption.
5. **“and, where needed, within the framework of international cooperation”**
43. The expression “and, where needed, within the framework of international cooperation” means that States are obliged to seek international cooperation (bilateral, regional, inter regional, global or multilateral) if it would facilitate the implementation of the rights of the Convention. The expression also means that developed States are obliged to provide international cooperation to developing States, with the aim to facilitate the implementation of the rights of boys and girls in the recipient country. This is clearly stated in the articles 17, 23, 24, 28 and especially 45 of the Convention. General comment no. 5 further states that *“When States ratify the Convention, they take upon themselves obligations not only to implement it within their jurisdiction, but also to contribute, through international cooperation, to global implementation.”*
44. The Committee underlines that the specific rule of the article 4 of the Convention places an obligation on States that lack resources to implement the rights of the child to seek and accept international cooperation for that purpose. States with resources for international cooperation have an obligation to ensure that its cooperation strategies comply with human rights, outline how the rights of the child will be prioritized and do not impact negatively on children – especially the most vulnerable.
45. States must further comply with their obligations under the Convention and the Optional Protocols when engaging in development cooperation as members of international organizations. General comment no.5 states (para 64): *“In their promotion of international cooperation and technical assistance, all United Nations and United Nations-related agencies should be guided by the Convention and should mainstream children’s rights throughout their activities. They should seek to ensure within their influence that international cooperation is targeted at supporting States to fulfil their obligations under the Convention. Similarly the World Bank Group, the International Monetary Fund and World Trade Organization should ensure that their activities related to international cooperation and economic development give primary consideration to the best interests of children and promote full implementation of the Convention.”*

B. The general child rights principles and public spending

46. Children’s rights are universal, indivisible, interdependent and interrelated. The Committee has established four general principles within the Convention as the basis for all State decisions and actions.

1. Public spending and the right to non-discrimination (art. 2)

47. Article 2 of the Convention prohibits all kinds of discrimination against children “irrespective of the child’s or his or her parent’s or legal guardian’s race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.” States must ensure that all laws, policies and programmes related to public spending do not intentionally or unintentionally discriminate against children in their content or implementation.
48. States should take steps to create a supportive environment for other actors – such as those within the legislature, civil society, business sector and media - to respect, promote and fulfil the right of children to protection from discrimination. This can be done through awareness-raising and capacity building related to challenging and eradicating discriminatory attitudes towards all boys and girls, especially those in vulnerable situations.
49. To achieve public spending that contribute to equal opportunities, States may be required to review and revise laws, policies and programmes to redress situations of inequality – and to increase or reprioritize among certain public allocations, or look into the sufficiency, effectiveness, efficiency and equity of the spending. The Committee reiterates the general comment no.5, which says: “Particular attention will need to be given to identifying and giving priority to marginalized and disadvantaged groups of children. The non-discrimination principle in the Convention requires that all the rights guaranteed by the Convention should be recognized for all children within the jurisdiction of States.”
50. States at all levels should take proactive measures to ensure equal opportunities for all boys and girls, including ensuring necessary public allocations and actual expenditures to make those measures a reality. States must also be able to identify groups of children that qualify for special measures and ensure necessary public allocations and actual expenditures needed to make those measures a reality.

2. Public spending and the best interest of the child (art. 3)

51. Article 3, paragraph 1, of the Convention provides that the best interests of boys and girls shall be a primary consideration for States in all actions concerning children. States are obliged to integrate and apply this principle in all legislative, administrative and judicial proceedings that directly or indirectly impact on children – including public spending. The Convention and its Optional Protocols provide the framework for assessing and determining the best interests of the child. The obligation to make the best interests of the child a primary consideration becomes crucial when States are engaged in weighing competing spending priorities, which entail economic and development considerations. States should be in a position to explain how the right to have the best interests of the child considered has been respected in decision-making, including how it has been weighed against other considerations.
52. The best interest of the child should be taken into consideration throughout the budget year and steps in the budget process. Boys and girls should be made a priority in budgetary allocations and spending as a means to ensure the highest return on the limited resources available. The Committee recalls the general comment no. 14, which states that: “To ensure compliance, States parties should... ensure that the best interests of the child are a primary consideration in all actions, including:... (d) Upholding the child’s best interests in the allocation of national resources for programmes and measures aimed at implementing children’s rights, and in activities receiving international assistance or development aid”
53. The best interests of the child should be a primary consideration throughout the budget process. States should conduct child rights impact assessments (CRIA) to assess impacts on boys and girls of laws, policies, programmes at national and sub-national levels,

including a focus on children in vulnerable situations who may have special needs and therefore require a disproportionate share of spending to have their rights fulfilled. CRIAs can predict the child rights impact of proposed laws, policies and programmes and should complement ongoing monitoring and evaluation efforts. Different methodologies and practices may be developed when undertaking CRIAs. At a minimum they must use the framework of the Convention and the Optional Protocols, as well as relevant concluding observations and general comments issued by the Committee. The CRIA may be based upon input from children, civil society, specialized experts, as well as from for example relevant State departments and academic research. The analysis should result in recommendations for amendments, alternatives and improvements and be publicly available.

3. Public spending and the right to life, survival and development (art. 6)

54. Article 6 of the Convention acknowledges that every child has an inherent right to life and that States shall ensure the survival and development of boys and girls. The Committee states its understanding of development of the child in general comment No.5, as a “holistic concept, embracing the child’s physical, mental, spiritual, moral, psychological and social development” and that “*implementation measures should be aimed at achieving the optimal development of all children*”.
55. The Committee recognizes that boys and girls have specific needs at different stages of their growth and development. Underinvestment in children early on in life can have life-long implications for boys and girls as they grow and become adults, including constrained cognitive capacity, irreversible deprivations, unequal access to life chances and intergenerational poverty. States’ public spending should take all areas required for a child to survive, grow and develop into consideration.
56. Studies have shown that investment in early development of children have great positive impact on the rights of the child and also brings high economic returns and reduces poverty cycles.
57. States should show their commitment to early development and survival by making visible the parts of the planned, enacted, revised, executed budget that directly and indirectly affect children aged 0 to 5.
58. Ensuring the right to life, survival and development includes the need to consider public spending for different groups of children within the current generation, but also the need to take future generations into account in public spending related decisions by developing multi-year expenditure projections, plans and accounts.

4. Public spending and the right to be heard (art. 12)

59. The Committee recognizes that there are past and ongoing experience of children’s meaningful participation in different parts of budget processes in a number of States. The Committee encourages States to share and seek such experience.
60. Article 12 of the Convention establishes the right of every boy and girl to freely express her or his views, in all matters affecting her or him, and the subsequent right for those views to be given due weight, according to the child’s age and maturity. States should hear children’s views regularly – in line with general comment no.12 – in relation to public budget related laws, policies and programmes that may affect them. This should be done through for example child rights impact analyses and mechanisms set up to regularly enable meaningful participation of boys and girls. In particular, States should consult with children who face difficulties in making themselves heard, including children in situations of vulnerability. States should also hear children when child rights impact assessments of proposed laws, policies and programmes are undertaken. The

Committee underlines the responsibility of States to ensure that there is funding to achieve active and meaningful participation of children in all decisions affecting them, and recognizes the important role played by independent ombudspersons for children, educational institutions, the media, community-based organizations, such as children's organizations, and parliaments in assuring the meaningful participation of children in relation to public spending.

61. States should develop mechanisms that enable meaningful participation of children and their advocates in the budget process at national and sub-national levels. Such mechanisms should include an awareness of the importance of, and making space available for, the participation of the most marginalized. The Committee recalls general comment number 14, which states that: "*Effective participation of children, and civil society child rights advocates, in the public budget process has the potential of leading to public expenditures that respond better to the actual situation of children, are less likely to be misused, and can improve the delivery of services that have an impact on children*".
62. Mechanisms should be in place for meaningful participation of civil society, including boys and girls, in monitoring and evaluation of transparent allocations and actual expenditures. The mechanisms should ensure that participants can contribute freely without fear of repression or ridicule and include States providing feedback to those who participated. This is not least vital with regard to participation of children, whose views should be met with respect, non-discrimination and responsiveness.
63. Para 29 in general comment no 5 says the following about participation: "*It will need to be developed through a process of consultation, including with children and young people and those living and working with them. As noted above (para. 12), meaningful consultation with children requires special child-sensitive materials and processes; it is not simply about extending to children access to adult processes.*" In terms of public spending, this requires States to budget for and produce contextually appropriate materials, mechanisms and institutions designed to enable meaningful child participation.
64. Another prerequisite for meaningful participation is transparency. Transparency means to make information available, accessible and user-friendly in relation to the planning, enactment, execution and follow up of public spending. The information should be organized so that it can readily be understood, interpreted and used by all stakeholders. This includes both quantitative budget data as well as relevant information about laws, policies, programmes, the budget process timetable, motivation for spending priorities and decisions, output, outcome and service delivery information. Article 13:1 of the Convention includes a child's right to information: "*The child shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of the child's choice.*"
65. To enable meaningful participation in the budget process the Committee also stresses the importance of States having information laws and policies in place that include, or at a minimum do not exclude, children's and child rights advocates' right to access budget documents - such as pre-budget statements, budget proposals, enacted budgets and mid-term reports that cover expenditures made, revenues collected, and debt incurred half way into the budget year. More regular, such as monthly or quarterly, in-year reports should also be made available as well as audit reports and responses.

IV. Principles of public spending

66. There are a several United Nations related documents that more or less explicitly speak about principles of human rights based public budgeting, such as the:

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- resolution A/HRC/28/L28 (2015), *Rights of the Child: towards better investment in the rights of the child*, which covers the importance of national policies, mobilization, transparency, accountability, participation, allocation and spending, child protection systems, international cooperation and follow-up, in relation to investment in boys and girls. R
 - resolution no. 67/218 on *Promoting transparency, participation and accountability in fiscal policies* (General Assembly, 2012), which emphasizes the need to improve the quality, efficiency and effectiveness of fiscal policies and encourages Member States to intensify efforts to enhance, transparency, participation and accountability in those policies. R
 - *International Handbook on Public Financial Management of the International Monetary Fund* (2013), which amongst other speaks about effective, efficient and equitable public financial management. It was written by experts of whom many have a background in the IMF and World Bank. I
 - IMF's *Fiscal Transparency Code* (2014), which covers the importance of comprehensiveness, clarity, reliability, timeliness, and relevance of public reporting on the past, present, and future state of public finances for effective fiscal management and accountability. I
67. The Committee recognizes all the principles raised above and especially highlights the principles of sufficiency, effectiveness, efficiency and equity in this General Comment.
68. Public spending must be sufficient: States must give “due priority” to the realization of rights. They must prioritize allocations and spending toward child rights-related areas. Furthermore, funds allocated to the rights of the child must be fully spent. States should make effort to overcome institutional barriers or bottlenecks that impede adequate spending and address lack of institutional capacity.
69. Public spending must be effective in the realization of children’s rights: This means that States must formulate and implement laws, policies and programmes that identify what needs to be done to advance children’s rights, and that goods and services to advance those rights are purchased in a way that provides value for money. States should not pay more than necessary for goods and services, and not spend on unnecessary items. Concerned parts of States should transfer funds to implementing agencies in a well-planned way throughout the budget year. Internal and external monitoring, evaluation and audit of the effectiveness of public spending can contribute to knowledge that advance the rights of boys and girls.
70. Public spending must be efficient: States should ensure that public spending is planned, enacted, executed and revised in a way that leads to sustainable advances in children’s rights, and includes boys and girls in vulnerable situations. States must assess in what way public spending affects different groups of children. Effective management of public expenditures contributes to efficiency and so do also internal and external monitoring, evaluation and auditing that contribute to knowledge to build on to advance children’s rights.
71. Public spending must be equitable: States must ensure equitable distribution of public budget allocations and actual expenditures to ensure distributional outcomes that reach different geographical areas and children in vulnerable situations. States are obliged to remove all discriminatory barriers boys and girls may face to access their rights.
72. The Committee also emphasizes the importance of transparent public budget documents and systems that enable concerned State officials to perform and provide information to legislature and civil society to monitor. Lack of such transparency can lead to inefficiencies and enable corruption that prevents available resources to reach boys and girls.

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73. The Committee emphasizes the importance of States making cost estimates of proposed laws, policies and programmes that affect children, to gain knowledge about financial resources needed and to plan sufficiently, effectively, and equitably, and ensure efficient use of resources needed to realize the rights of boys and girls. The cost estimates should be based on the situation and local context of children's rights and analysis of current programmes that benefit children.
74. The Committee recognizes that there are good practical experience in many States on how to apply the principles of public budgeting mentioned above, and encourages States to share and seek such experiences.

V. Implementation of the rights of the child in public spending

75. In paragraphs 68 to 71, this General Comment discussed the meaning of sufficient, effective, efficient and equitable public spending. It also highlighted the importance of transparent, participatory and accountable budget processes at all levels of the State. In this chapter this is further elaborated on in relation to the four stages of the budget process: 1) planning, 2) enactment, 3) execution and 4) follow-up in the form of reporting, evaluating and auditing.
76. While focusing on the national and sub-national levels of the State in this chapter, the Committee stresses the obligation of States to seek international cooperation if it would facilitate the implementation of the rights of the Convention. The Committee also stresses the obligation of States to provide international cooperation to developing States, with the aim to facilitate the implementation of the rights of the child in the recipient country.
77. The Committee further emphasizes the importance of effective cross-sectorial, interministerial, interdepartmental and interagency coordination and cooperation to fully implement of the Convention and Optional Protocols. States must ensure that national and sub-national levels of the State have the necessary resources to sustain such coordination. This is not least vital in relation to the budget process and requires States to ensure interoperability of their information systems to achieve coordination.

(Image to be inserted here of the budget cycle)

A. Planning

1. Assessing the situation

78. The planning stage of the budget process needs to be based on comprehensive and realistic assessments of the economic and child rights situation. States' budgets should include consideration of the past (at least 3-5 prior years), current and future (at least 5-10 year projections) situation of different groups of children, especially those in vulnerable situations. The Committee urges States to review the mandates and resources of statistical bodies and systems for disaggregated quantitative and qualitative data collection, processing, analysis and dissemination to ensure those systems provide information needed for making budget allocations that respect, promote, protect and fulfil the rights of the boys and girls.
79. Reliable, timely, accessible and comprehensive disaggregated information and data in reusable formats on the macroeconomic, fiscal and child rights current and projected situation are fundamental to creating relevant laws, policies and programmes aimed to directly or indirectly target and advance the rights of the child - and to achieve sufficient, effective, efficient and equitable spending to make them a reality.
80. The Committee emphasizes the importance of that disaggregated data on the rights of the child –at least by age, gender and geographical area - is made available and accessible to

public officials and members of the legislative involved in public budgeting at national and sub-national levels, as well as to civil society, including children.

81. The Committee underlines the importance of considering audits, evaluations and studies of the impact on boys and girls of past actual public expenditures at the planning stage of the budget process.
82. The Committee emphasizes the importance of States reviewing existing, or creating new, mechanisms to regularly consult with children, children's caretakers and those working for their rights – including human rights commissions and children's ombudsmen - to hear and seriously consider their views on what should be prioritized and taken into account in decisions made throughout the budget year.
83. The Committee encourages States to use new technologies to become more coordinated, effective, transparent and accountable in terms of public spending in relation to children's rights.

2. Considering laws, policies and programmes

84. Laws, policies and programmes – such as those related to fiscal issues, the budget process or specific areas of children's rights - have a direct or indirect impact on boys and girls. States are required to take all possible measures to ensure that all laws, policies and programmes reflect the realities of children, especially those in vulnerable situations, and advance the rights of boys and girls. States are required to ensure that laws, policies and programmes do not harm children or prevent their rights becoming a reality.
85. The Committee recognizes that macroeconomic and fiscal laws, policies and programmes can have an indirect impact on children through services delivered to them, or their adult care takers who may for example be affected by labor market laws, policies on public debt management or social security programmes.
86. States must carefully consider the impact on children of such policies at the planning stage. The Committee emphasizes the responsibility of States to conduct child rights impact assessment of all laws, policies and programmes, to ensure they not undermine the realization of the rights of boys and girls.
87. In line with paragraph 73, the Committee recommends States to cost goods and services of laws, policies and programmes that have the potential to have a positive direct or indirect impact on children, in order to develop budgets that can fully contribute to the implementation of those laws policies and programmes.
88. The laws policies and programmes to consider may also be based in regional or international development cooperation or States memberships in international organizations. A State engaged with international development or finance coordination must take all reasonable actions and measures to ensure that such coordination acts in accordance with the Convention and the Optional Protocols in their decision-making and operations.

3. Mobilizing resources

89. States should take concrete sustainable measures to mobilize domestic resources - such as taxes, non-taxes, borrowing and natural resources. The Committee recognizes the importance of States' laws, policies and systems in relation to revenue collection, borrowing to sustain available resources for the rights of the child at the national and sub-national levels. When appropriate, States should also invite private sector involvement in a way that promotes mobilization of resources for, and the realization of, the rights of the child. The Committee recalls the general comment no. 16 which says that *"The Committee recognizes that duties and responsibilities to respect the rights of*

children extend in practice beyond the State and State-controlled services and institutions and apply to private actors and business enterprises. Therefore, all businesses must meet their responsibilities regarding children's rights and States must ensure they do so. In addition, business enterprises should not undermine the States' ability to meet their obligations towards children under the Convention and the Optional Protocols thereto".

90. States should also take concrete sustainable measures to, where needed, mobilize resources through international cooperation. The Committee recognizes the importance of States' laws, policies and systems in relation to international cooperation to sustain available resources for the rights of the child.
91. States should conduct child rights impact assessments of laws and policies related to mobilizing resources, to ensure they contribute to, and do not undermine, the realization of the rights of the child - and revise and harmonize the laws and policies accordingly.
92. Lack of transparency in resource mobilization systems can lead to inefficiencies in mobilizing resources and enable corruption. States should do their utmost, including having laws, policies and programmes in place, to prevent tax evasion that contributes to insufficient resources being available to spend on the rights of the child.
93. The Committee urges States to review and ensure that the horizontal (between spheres at the same level of the State) and vertical (between different levels of the State) division of revenue is planned and executed in a way that effectively makes resources available for the implementation of laws, policies and programmes that positively affect children, and enhances equality in terms of boys and girls accessing their rights among different geographical regions.
94. The Committee emphasizes that States should review and strengthen their capacity to formulate and manage tax laws, policies and systems to ensure that public resources meet their obligations to children's rights. Depending on the context, it can entail increasing direct tax collection, broadening the tax base, or signing agreements between countries to avoid double taxation and tax evasion. When mobilizing resources, States must levy and collect them in a way that recognizes the best interest of the child and people's differences in ability to pay in a progressive manner - and does not disproportionately target people in vulnerable situations with already scarce financial resources, who may be the care takers of children.
95. The Committee recognizes that sustainable debt management of States, on the behalf of creditors and lenders, can contribute to mobilizing resources for the rights of the child. Sustainable debt management includes having in place transparent laws, policies and systems with clear roles and responsibilities for borrowing, lending, as well as managing and monitoring debt. The Committee also recognizes the importance of children's rights being realized within the context of fiscal sustainability. States should ensure that available resources for children's rights are sustainable for current and future generations by ensuring its sources of revenue, its spending and liabilities do not lead to insolvency or default. The Committee reiterates the general comment number 16, which states that "States should not accept loans from international organizations, or agree to conditions set forth by such organizations, if these loans or policies are likely to result in violations of the rights of children." The Committee also recognizes that long-term unsustainable debt can be a barrier to State's ability to mobilize resources for children's rights, and may lead to taxes and user fees that impact negatively on children. States should take measures to ensure long-term sustainable management of borrowing and lending, which contributes to mobilizing resources for children's rights.
96. Debt relief, in the form of debt swaps or other initiatives by creditors such as States, the Bretton Woods institutions and the private sector, can increase States' ability to mobilize resources for the rights of boys and girls. States' receiving debt relief should ensure that children's rights are made a priority in decisions on what to use the relieved resources.

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97. States should seek international cooperation if available resources to realize the rights of the boys and girls are lacking, and such international cooperation policies and programmes should take the Convention and its Optional Protocols into account both on the part of the recipient and donor States. The Committee underlines that in line with the above the international cooperation to realize children's rights can include regional or international cooperation in relation to taxation, combating tax evasion, debt management, transparency etc.
98. States must do their utmost to prevent wastage of resources due to inefficiency and ensure that corruption does not diminish the availability of resources for the rights of the child, by combatting corrupt or illicit practices at all levels, including tax evasion and illicit financial flows, which directly affect the resources available for children's rights.
99. States must also protect children's rights when mobilizing resources – such as in the case of natural resource extraction, which could have negative effects on current and future generations of boys and girls living in the areas the resources are extracted from.

4. Formulating budgets

100. States should review in what way their work to formulate the pre-budget statement and budget proposal, at national and sub-national levels, take children's rights into account. The Committee recommends States to specifically review in what way their administrative guidelines and routines leading up to the formulation of the pre-budget statements and budget proposals - such as standardized work sheets and instructions regarding which stakeholders should be consulted - are conducive to working towards the sections (a), (b) and (c) above.
101. The Committee encourages States to at a minimum include the following in the pre-budget statements and budget proposals:
- a) Overviews of which laws, policies and programmes affecting children are being prioritized and why - including fiscal laws and policies, and laws and policies related to the budgetary process.
 - b) Identification of which budget allocations directly target children.
 - c) Identification of which budget allocations indirectly affect children.
 - d) Major evaluations and audit findings regarding the outcomes on children of expenditures related to the implementation of laws, policies and programmes.
 - e) Highlights of new measures taken to advance children's rights – such as economic, political and institutional measures.
 - f) Both financial data and explanatory information in text regarding the past, present and forecasted available resources and actual expenditures to achieve children's rights.
 - g) Performance targets that link programme goals related to children's rights to budget allocations and actual expenditures, and allow monitoring of outcomes and impacts on children.
102. States should ensure that the pre-budget statement and budget proposal documents are user-friendly, timely and accessible to children, and child rights advocates within the State at national and sub-national levels, legislatures and civil society, by for example publishing the documents on the internet, making the information known through the radio, including explanatory texts written in an every-day language, making sure publications are provided in relevant languages and ensuring that people in vulnerable situations are reached by the information.
103. To be able to monitor the sufficiency, effectiveness, efficiency and equity of budget allocations and actual expenditures affecting boys and girls throughout the budget process States at national and sub-national levels should adhere to internationally agreed budget classification systems such as functional (sector or sub sector), economic (current and capital expenses), administrative (ministry, department, agency etc.) and programme (if programme based budgeting is used) breakdowns.

104. The Committee further recommends States to review and ensure that their classification systems include budget lines and codes⁷ that at a minimum disaggregate planned, enacted, revised and actual expenditures, that directly affect children, by:

- a) Ages that reflect the State context.
- b) Gender: boys and girls.
- c) Geographical areas in accordance with what is most useful in the context – such as per a sub-national level.
- d) Current, and potential future, groups of children in vulnerable situations within the State’s jurisdiction – such as children with disabilities, living in economic poverty, are of certain ethnic groups, who are forced to work, who live on the streets, in child-headed households, or separated from their families.
- e) Source of revenue: national, sub-national or international.
- f) Responsible unit or units - such as departments, ministries or agencies – at national and sub-national levels.

105. States are encouraged to as far as possible ensure that budget lines and codes are the same at national and sub-national levels to allow for comparison and monitoring.

106. States also need to specify whether public programmes, and thus allocations and actual expenditures, are outsourced to the private sector to be able to fulfil its obligations according to the general comment no. 16, which says that “*States are not relieved of their obligations under the Convention and the Optional Protocols thereto when their functions are delegated or outsourced to a private business or non-profit organization. A State will thereby be in breach of its obligations under the Convention where it fails to respect, promote and fulfil children’s rights in relation to business activities and operations that impact on children.*”

B. Enacting

1. Oversight of budget in legislature

107. The Committee underlines the importance of legislators at national and sub-national levels having access to user-friendly information about the situation of children and clear explanations from the State that show how laws, policies and programmes directly or indirectly impacting on children are translated into budget lines.

108. States should ensure that there are resources available, such as through a budget office of legislature, to support legislatures’ analyses of and debate on the impact on boys and girls of budget proposals.

109. States should further ensure that there is enough time, within the budget process, for legislatures to receive the budget proposal, review and debate it, and possibly suggest amendments to revenue and allocation plans related to children before the enactment.

110. States are encouraged to review and strengthen the capacity of national and sub-national legislatures - including the legislative committees and administrative bodies - to independently undertake or commission analyses that highlight the implications of budget proposals on the rights of the child.

⁷ Budget lines and codes are part of states’ budget classification systems and are used to make visible what is budgeted for and spent in relation to for example sectors, departements, programmes or types of expenditures/revenues. When you look into a budget document you may for example find information that is coded and presented in budget lines such as education, the Department of Health, the child support grant or salaries/taxes.

111. States are also encouraged to make resources available for legislatures to hold hearings regarding the budget proposal with stakeholders within the State and civil society, including children, who can contribute to the enactment of a budget that aims to advance the rights of boys and girls in a sufficient, effective, efficient and equitable way.

2. Enactment of budget by legislature

112. The Committee highlights the importance of enacted budgets being classified in a way that to the greatest extent possible corresponds with the State's budget proposal and records of actual expenditures, to enable monitoring.

113. States should ensure that enacted budget documents are accessible to children and child rights advocates within the State, legislatures and civil society at national and sub-national levels.

C. Executing

1. Transferring available resources

114. Article 4 of the Convention obliges States to do their utmost to make financial resources available and spent in an effective and efficient way to implement the rights of the child. The Committee underlines that the obligation of the article 4 also includes keeping track of and examining root causes of ineffectiveness and inefficiencies, of actual expenditures, caused by for example ineffective procurement systems, poor quality of purchased goods or services, inadequate cash management systems, leakages in the form of untimely transfers or other, unclear roles and responsibilities, poor absorptive capacity, lack of access to services, weak budget information systems, and corruption. When ineffectiveness occurs, States have an obligation to explain why it did and show what is done to overcome those problems.

115. The Committee underlines the importance of States having in place transparent mechanisms of procurement that can contribute to value for money when goods and services are purchased to respect, promote, protect and fulfil the rights of boys and girls.

116. States should do their utmost to protect financial resources dedicated to implement child rights related laws, policies and programmes also in times of austerity. This includes protecting basic social services and social protection nets.

117. States should monitor the distributional effects of actual expenditures on different groups of children, to be able to revise budget allocation decisions to better target inequality during the budget year and from year to year.

118. States should establish public accountability mechanisms that allow citizens, including boys and girls, to monitor outcomes of public spending.

2. Reporting on budgeted and actual expenditures

119. States should monitor and report on the implementation of enacted budgets on a regular basis. This includes making comparisons between what was budgeted and actual outcomes at different administrative levels across different social sectors. A comprehensive mid-term report should be made public that covers actual expenditures made, revenues collected, and debt incurred half way into the budget year. More regular, such as monthly or quarterly, in year reports should also be made available. The Committee emphasizes the importance of the reports being made publically available in a timely manner and emphasizes the importance of the reports showing deviations between the enacted, revised and actual outcomes in relation to laws, policies and programmes that affect boys and girls.

120. During the budget execution stage, the reach of actual expenditures to different groups of children should be monitored and analyzed – such as in terms of availability, quality, accessibility and especially equity. States should ensure that resources and capacity is in place to conduct such monitoring and analyses, including in services outsourced to the private sector.

121. The Committee refers to the paragraphs 102 to 104 and underlines the importance of States having in place budget classification systems that allows expenditures related to the rights of the child to be analyzed in the way mentioned above.

122. States should have internal control and audit processes in place to ensure that rules and procedures in relation to actual budget expenditures directly or indirectly related to children's rights are followed, and that accounting and reporting processes are adhered to.

D. Reporting, evaluating and auditing

1. Reports and evaluations

123. At the end of the budget year States, at national and sub-national levels, should report on revenue, borrowing, international cooperation and actual expenditures, including those related to the rights of boys and girls. The year-end reports should be assessed by the legislature and made public in order for civil society to be able to raise concerns and hold the State to account for the actual public expenditures. The Committee emphasizes the importance of the inclusion of comprehensive information, related to the above and the rights of the child, in the year end-report.

124. Evaluations and other types of analyses of the impact of actual public expenditures on the situation of different groups of children, especially those in vulnerable situations, are vital to advance children's rights, and not least in relation to public spending. States should ensure sufficient financial and human resources to realize regular and timely such evaluations of highest quality.

125. The Committee emphasizes the importance of States establishing and strengthening independent evaluation bodies – such as independent research institutions and universities – to take on evaluations in relation to the sufficiency, effectiveness, efficiency and equity of actual expenditures related to the rights of the child.

126. States should assess and consider the findings of evaluations related to direct and indirect impacts on children's rights throughout the budget process and report back on decisions taken in relation to them.

2. Audits

127. States should also present their final accounts to the Supreme Audit Institution (SAI), which undertake audits of whether expenditures took place in accordance with the enacted budget. There may also be audits of the effectiveness of expenditures and those that cover certain sectors, parts of the State, a cross-cutting issue, or the internal and external debt. The Committee recommends States to ensure there is resources for the SAI to make audits of in relation to the rights of boys and girls.

128. The Committee underlines that the SAI should be independence from the State, and have a mandate to access information and resources needed to audit and develop audit reports in relation to children's rights in an independent, accountable and transparent manner.

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- 129.** The Committee recommends States to give public responses to audits related to the impact of actual expenditures on the rights of the child, including in what way the State intends to take care of specific audit findings and recommendations.
- 130.** States should ensure that State officials have the capacity to appear before committees of the legislature to respond to concerns raised in audit reports about the sufficiency, effectiveness, efficiency and equity of public spending related to child rights.
- 131.** Civil Society can play a crucial role in drawing lessons learned by using different techniques – such as conducting social audits at the end of, or during, the budget year. Social audits includes a range of methods, such as score cards and public hearings, and entail a process of reviewing official records and determining whether a State’s nationally and sub-nationally reported expenditures reflect what was actually spent on the ground. The Committee underlines the importance of State officials having the capacity to respond in an informed way to such initiatives.
- 132.** States should also contribute to empower citizens to participate in the evaluation and audit of budget allocations and actual expenditures through public accountability mechanisms.
- 133.** The Committee stresses the importance of States bringing lessons learned from evaluations and audits to the planning stage of the budget process.

VI. Dissemination

- 134.** The Committee recommends that States widely disseminate this General Comment to all parts of States – including their different ministries, departments and agencies at national and sub-national levels – and to national and sub-national legislatures, political parties, the judiciary, independent human rights institutions, children’s ombudspersons and other similar actors; civil society – including children and those among them in situations of exclusion, their families and organizations that provide goods and services concerning or impacting on children; Academia; the private sector involved in outsourced public goods and services and obliged to pay taxes that contribute to resources being available for the implementation of the rights of boys and girls; public budget administrators; and bilateral, regional, inter-regional, global and multilateral donors and institutions.
- 135.** The Committee encourages all of the above stakeholders to share good practices in relation to the content of this General Comment.
- 136.** The General Comment should be translated into relevant languages, child appropriate versions should be made available, conferences, seminars, workshops and other events should be held to share best practices on how best to implement it. It should also be incorporated into the formal pre- and in-service training of all concerned professionals and technical staff.
- 137.** States should include information in their periodic reporting to the Committee on the challenges they face and the measures they have taken to apply article 4 in their budget processes, and specifically in relation to their actual expenditures that have a direct or indirect impacts on boys and girls.