**Article 13 - List of illustrative indicators on access to justice by persons with disabilities**

**Right to access to justice**

**Attributes/Indicators**

* **Equal access to and equality before the justice system**
* **Participation of persons with disabilities in the justice system**

**Structure**

13.1 Legislation enacted related to the justice system, both in its structure/organisation/administration and its procedures, and across its sectors (e.g. civil, criminal), inclusive of persons with disabilities. [[1]](#endnote-1)

13.2 No provision in the constitution, legislation or regulations that restricts access to justice or the participation in the justice system on the basis of disability. [[2]](#endnote-2)

13.3 Substantive and procedural criminal legislation enacted that ensures persons with disabilities, notably with psychosocial disabilities, substantive and procedural guarantees on an equal basis with others, and prohibits diversion from proceedings on the basis of impairments.[[3]](#endnote-3)

**Process**

13.4 Measures to ensure access to free legal aid for persons with disabilities in all areas of law. [[4]](#endnote-4)

13.5 Existence of specific measures to promote the inclusion of persons with disabilities within the justice system and related institutions, as judges, prosecutors, staff, etc.

13.6 Number of requests of reasonable accommodations and proportion of those provided to persons with disabilities in recruitment processes and/or to perform duties as part of the judiciary officials and staff.

13.7 Accessibility standards applicable to the built environment, transportation, and information and communication systems of and related to the justice system.[[5]](#endnote-5)

13.8 Number of requests for procedural and gender- and age-appropriate accommodations and proportion of those provided to persons with disabilities to enable their participation in legal proceedings, disaggregated by age, sex, disability, area of law/type of procedure (civil, criminal, etc.), and role (claimant, witness, etc.) of the person concerned. [[6]](#endnote-6)

13.9 Awareness raising campaign and activities targeting persons with disabilities[[7]](#endnote-7) on their rights to access to justice, including legal aid, victim support, remedy, and redress in the judicial system available to them, as well as other persons such as relatives of persons with disabilities, public officials and the general public.

13.10 Number and proportion of members of the judiciary, members of the legal profession and law enforcement officials trained on the CRPD, including notably on the human rights based approach to disability, the right to procedural accommodation, and on communication with persons with disabilities, including on alternative means and modes of communication

13.11 Consultation processes undertaken to ensure active involvement of persons with disabilities, including through their representative organizations, in the design, implementation and monitoring of laws, regulations, policies and programs related to the right to access to justice of persons with disabilities.[[8]](#endnote-8)

13.12 Budget allocated and spent on measures to promote access to justice of persons with disabilities and their participation within the justice system, including explicitly specifying those for a) legal aid for persons with disabilities (13.4); b) training of judges, prosecutors, etc. (13.11); and c) provision of procedural accommodation for persons with disabilities (13.9).

**Outcome**

13.13 Number and proportion of court facilities, legal aid centers, police stations, etc., which are accessible to persons with disabilities, disaggregated by geographical location.

13.14 Number of complaints submitted to the justice system by persons with disabilities, investigated and adjudicated in favor of the complainant, disaggregated by kind of mechanism, area of law/type of procedure (civil, criminal, etc.), substantive rights involved, and remedies granted, and the proportion of these complied with by the government, duty bearer or private respondent.

13.15 Proportion of crimes against persons with disabilities brought before judicial authorities.

13.16 Number and proportion of persons with disabilities who access victim support services, as compared to others, disaggregated by age, sex, disability and kind of service.[[9]](#footnote-1)

13.17 Unsentenced detainees as a proportion of overall prison population (SDG indicator 16.3.2), disaggregated by age, sex and disability.

13.18 Number and proportion of persons with disabilities who hold positions as judges, prosecutors, etc., within the justice system and related institutions, disaggregated by age, sex, disability, position and sector of the judiciary/institution.

13.19 Number and proportion of persons with disabilities who participate (or engage with) legal proceedings, within the justice system and related institutions as indirect participants (witnesses, expert witnesses, jurors, etc.) disaggregated by age, sex, disability, kind of role and sector of the judiciary.

**ANNEX**

1. Such legislation must include:

   the provision of procedural, gender and age appropriate accommodation to persons with disabilities in all legal proceedings to ensure their access to justice on equal basis with others (see glossary of terms on the distinction between procedural accommodation and reasonable accommodation).

   provisions to ensure that persons with disabilities exercise their right to legal capacity, including through the provision of supported decision making (Article 12 of the CRPD).

   in line with Article 5 (indicators 5.1 and 5.6), provisions that allow to submit claims alleging multiple and intersectional discrimination on various grounds, as well as strengthen access to justice of persons with disabilities at higher risk of marginalization, such as women with disabilities, children with disabilities and indigenous persons with disabilities.

   provisions to ensure adequate, proportionate and effective remedies and sanctions.

   the provision of reasonable accommodation and support to persons with disabilities to be eligible to be part of and work in the judiciary on equal basis with others. [↑](#endnote-ref-1)
2. This includes no denial nor restriction in law to access to justice or the participation in the justice system on the basis of disability, such as:

   * Denial of legal standing to those currently deprived of legal capacity in contradiction with Article 12 of the CRPD.
   * Denial of legal capacity to present evidence or provide testimony as a witness because of disability and related stigmas (e.g. being deemed not credible).
   * Denial of legal standing on the basis of disability.
   * Requirement of mandatory legal representation by the guardian or institution for those persons with disabilities currently residing in institutions in contradiction with Article 19 of the CRPD.
   * Requirements that prevent persons with disabilities from applying for and being admitted to faculties of law or judicial training institutions, and from practicing law and holding judgeships.

   [↑](#endnote-ref-2)
3. Diversion from criminal proceedings based on legal concepts such as “unfitness to stand trial”, “insanity defence”, “inimputabilidad” and “non-criminally liable”, excludes persons with disabilities from substantive and procedural guarantees on the basis of impairment contrary to Article 13 and leads to deprivation of liberty on the basis of impairment contrary to Article 14 of the CRPD. [↑](#endnote-ref-3)
4. Particular attention should be given in this regard to women with disabilities, children with disabilities, deaf-blind persons and persons with psychosocial and/or intellectual disabilities, and persons with disabilities living in residential institutions. [↑](#endnote-ref-4)
5. This includes courts and tribunals, police stations, victim support services and shelters, the provision free of charge of sign language interpretation, Easy-Read, Braille, accessible digital formats. In particular, current trends on digitalization of court procedures and other uses of new technologies aimed at increasing efficiency of the administration of justice must neither create new barriers to persons with disabilities nor prevent the provision of age-appropriate procedural accommodations or the required flexibility of proceedings. Accessibility of courts in terms of geographical location and distance and available transportation must also be considered. [↑](#endnote-ref-5)
6. When requested, the provision of procedural accommodation is due in “all judicial and administrative proceedings” and must be based on the free choice and preference of the person concerned. Examples of procedural accommodation are the provision of sign language interpretation, the availability of legal and judicial information in accessible formats, multiple means of communication, easy read versions of documents, Braille and remote participation and video link testimony, provision of assistive technologies, personal assistance; procedural flexibility to accommodate specific requirements for participation, for example changing a court venue, allowing sign language interpreters to participate in confidential jury debates, extending or adjusting procedural deadlines and adjusting procedural formalities and timeframes(See, OHCHR, [A/HRC/37/25](https://undocs.org/A/HRC/37/25), para. 24). [↑](#endnote-ref-6)
7. Notably deaf-blind persons and persons with psychosocial and/or intellectual disabilities, including those living in institutions, women with disabilities and children with disabilities [↑](#endnote-ref-7)
8. This indicator requires verifying concrete activities undertaken by public authorities to involve persons with disabilities in decision-making processes related to issues that directly or indirectly affect them in line with article 4.3 of the CRPD, including consultation meetings, technical briefings, online consultation surveys, call for comments on drafts legislations and policies, among other participatory methods. In this regard, see General Comment no 7 of the CRPD Committee (CRPD/C/GC/7) where it is elaborated that States must:

   ensure that consultation processes are transparent;

   ensure provision of appropriate and accessible information;

   not withhold information, condition or prevent organizations of persons with disabilities from freely expressing their opinions;

   include both registered and unregistered organizations;

   ensure early and continuous involvement; and

   cover related expenses of participants (e.g. transport and other expenses to attend meetings and technical briefings). [↑](#endnote-ref-8)
9. [↑](#footnote-ref-1)