

# Article 13: List of illustrative indicators on access to justice

ADVANCE VERSION

© 2020 United Nations

The *Human Rights Indicators on the Convention on the Rights of Persons with Disabilities (CRPD)* are a component of the [SDG-CRPD Resource Package](#) developed by the Office of the United Nations High Commissioner for Human Rights (OHCHR). This is an advance version of the SDG-CRPD Resource Package. A final version will be issued upon completion of OHCHR review processes.

The *Human Rights Indicators on the CPRD* were produced with the financial support of the European Union. Its contents are the sole responsibility of OHCHR and do not necessarily reflect the views of the European Union.



### 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
<b>Structure</b>	<p>13.1 Legislation enacted relating to the justice system which is inclusive of persons with disabilities, concerning its structure/organisation/administration and procedures, and across civil and criminal sectors.<sup>i</sup></p> <p>13.2 No provision in the constitution, legislation or regulations that restricts access to justice or restricts participation in the justice system on the basis of disability.<sup>ii</sup></p> <p>13.3 Substantive and procedural criminal legislation enacted that ensures substantive and procedural guarantees for persons with disabilities on an equal basis with others and prohibits diversion from proceedings on the basis of impairment, notably for persons with intellectual disabilities and persons with psychosocial disabilities.<sup>iii</sup></p>	
<b>Process</b>	<p>13.4 Measures adopted to ensure access to free legal aid for persons with disabilities in all legal proceedings.<sup>iv</sup></p> <p>13.5 Proportion of requests by persons with disabilities for legal assistance and free interpreters being met (criminal and civil proceedings) annually</p> <p>13.6 Measures adopted to ensure the provision of procedural and gender- and age-appropriate accommodations.<sup>v</sup></p> <p>13.7 Proportion of cases where the time for arrested persons before receiving notice of the charge (in a legal sense and in language they understand) exceeded statutory or mandated limit, disaggregated by disability.</p> <p>13.8 Number and proportion of court facilities, legal aid centers, police stations, etc., which are accessible to persons with disabilities, disaggregated by geographical location.</p>	<p>13.9 Adoption of specific measures to promote the inclusion of persons with disabilities within the justice system and related institutions, as judges, prosecutors, police, staff, etc.</p> <p>13.10 Number of requests of reasonable accommodations and proportion of those provided to persons with disabilities in recruitment processes, and/or to perform duties as an employee of the justice sector (judiciary, law enforcement, State legal services, etc).</p>
	<p>13.11 Accessibility standards adopted and applied to the built environment, transportation, and information and communication systems related to the justice system.<sup>vi</sup></p> <p>13.12 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 sex, age, disability, area of law/type of procedure (civil, criminal, etc.), and role of the person concerned (applicant, defendant, witness, juror, etc.).</p> <p>13.13 Awareness raising campaign and activities on the rights of persons with disabilities to access to justice, including access to legal aid, victim support, available and effective remedies and redress, targeting persons with disabilities<sup>vii</sup> and others, such as relatives of persons with disabilities, public officials and the general public.</p> <p>13.14 Number and proportion of members of the judiciary, members of the legal profession and law enforcement officials trained on the CRPD, including on the human rights based approach to disability, universal legal capacity for all persons with disabilities, combating harmful gender and disability stereotypes and prejudices, the obligation to ensure procedural accommodations, and on communication with persons with disabilities, including on alternative means and modes of communication.</p> <p>13.15 Consultation processes undertaken to ensure the active involvement of persons with disabilities, including through their representative organizations, in the design, implementation and monitoring of laws, regulations, policies and programmes related to the right to access to justice of persons with disabilities.<sup>viii</sup></p> <p>13.16 Budget allocated and spent on measures to promote access to justice for persons with disabilities and their participation within the justice system, including explicitly on: a) legal aid for persons with disabilities; b) training of judges, prosecutors, etc.; and c) provision of procedural accommodation for persons with disabilities .</p>	

### 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
<b>Outcome</b>	<p>13.17 Proportion of public attendees at court who rate services and court as highly accessible in their own language, including sign language (court survey)</p> <p>13.18 Number of complaints submitted to the justice system by persons with disabilities, that have been investigated and adjudicated; proportion of those found in favour of the complainant; and proportion of the latter that have been complied with by the government and/or duty bearer; each disaggregated by kind of mechanism, area of law/type of procedure (civil, criminal, etc.), substantive rights involved and remedies granted.</p> <p>13.19 Proportion of crimes against persons with disabilities brought before judicial authorities out of total number of crimes, disaggregated by sex, age and disability of the victim.</p> <p>13.20 Number and proportion of persons with disabilities who access victim support services, as compared to others, disaggregated by sex, age, disability and kind of service.</p> <p>13.21 Unsentenced detainees as a proportion of overall prison population (SDG indicator 16.3.2), disaggregated by sex, age and disability.</p>	<p>13.22 Number and proportion of persons with disabilities who hold positions as judges, prosecutors, etc., within the justice system and related institutions, disaggregated by sex, age, disability, position and sector of the judiciary/justice system.</p> <p>13.23 Number and proportion of persons with disabilities who participate in legal proceedings, within the justice system and related institutions as indirect participants (witnesses, expert witnesses, jurors, etc.) disaggregated by sex, age, disability, kind of role and sector of the judiciary/justice system.</p>

i \*For more guidance, see the [International Principles and Guidelines on Access to Justice for Persons with Disabilities](#) developed under the initiative of the Special Rapporteur on the rights of persons with disabilities.

Such legislation must include:

- the provision of procedural, gender and age appropriate accommodations to persons with disabilities in all legal proceedings to ensure their access to justice on an equal basis with others.
- 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) of the CRPD, provisions allowing the submission of claims alleging multiple and intersectional discrimination on various grounds, as well as provisions to 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 participate and work in judicial proceedings and within the judiciary on an equal basis with others.

ii This includes no denial nor restriction in the law to access justice or to participate in the justice system on the basis of disability, such as:

- Denial of legal standing on the basis of disability (including through formal deprivation or restriction of legal capacity) in contradiction with Article 12 of the CRPD.
- Denial of the opportunity to present evidence or to testify as a witness on the basis of disability and related stigmas (e.g. legal capacity status, being deemed not credible, etc.).

- Requirement of mandatory legal representation by a guardian or institution for those persons with disabilities currently residing in institutions in contradiction with Articles 12 and 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.

iii Diversion from criminal proceedings based on legal premises 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.

iv Particular attention should be given in this regard to women with disabilities, children with disabilities, deaf persons, persons with psychosocial disabilities, persons with intellectual disabilities, persons with disabilities living in residential institutions, and persons with disabilities with indigenous background or belonging to minorities, and to ensuring that information and communications are accessible and in languages understood by them, including the provision of interpretation in sign languages and indigenous/minority languages.

v 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 other procedural formalities and timeframes (See OHCHR, [A/HRC/37/25](#), para. 24).

vi This includes courts and tribunals, police stations, victim support services and shelters, the provision free of charge of Easy-Read, Braille, accessible digital formats and interpretation into a language understood by parties and participants including sign language and indigenous/minority languages. 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, nor the required flexibility of proceedings. Accessibility of courts in terms of geographical location and distance and available transportation must also be considered.

- <sup>vii</sup> Particularly, those who face significant barriers including persons with psychosocial disabilities, persons with intellectual disabilities including those living in institutions, women with disabilities, children with disabilities, deaf persons, and persons with disabilities with indigenous background or belonging to minorities.
- <sup>viii</sup> 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 and General Comment no. 7 of the CRPD Committee, including consultation meetings, technical briefings, online consultation surveys, calls for comments on draft legislation and policies, among other methods and mechanisms of participation. In this regard, States must
- ensure that consultation processes are transparent and accessible;
  - 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;
  - cover related expenses of participants.