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Bartolomé de las Casas



Just4All

Access to Justice of Persons with Disabilities: the way forward and practical tools

About the project

The Just4All project, coordinated by Fundación ONCE, aims to promote access to justice for persons with disabilities by raising awareness among legal practitioners on the needs of people with disabilities and develop a training for legal practitioners on that topic.

We seek to promote the effective implementation of the European Charter of Fundamental Rights, the UN Convention on the Rights of Persons with Disabilities and EU legislation on disability. The project is also looking at cross-cutting issues of gender and children with disabilities and consider the variety of legal domains that the justice system entails.



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I. The Barriers Persons with Disabilities face to Access Justice in the EU

1) Accessing the system

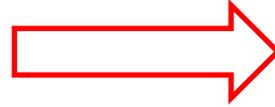
- The access to the justice system is in the first place an issue.
- Socio-economic situation of persons with disabilities in the EU
- The bureaucratic and financial complexity of the pre-litigation phase
- Not knowing one's rights is a part of the issue
- The balance of access to information
- A more efficient public service support to access legal information in an accessible format should be mainstreamed throughout the EU.
- Legal capacity of persons with disabilities at the core of access to justice



I. The Barriers Persons with Disabilities face to Access Justice in the EU

2) Legal proceedings

The ECFR '*a fair and public hearing within a reasonable time by an independent and impartial tribunal previously established by law.*'



Main areas of discrimination:

- Rejecting disability status
- Not properly listened to
- Not granted right to speak
- No shift burden of proof
- Denial procedural accommodations

3) Accesibility Barriers

Main barriers:

- Lack of universal design in buildings
- Setting and pace
- Inaccessible information
- Inaccessible communication

What are procedural accommodations?

Procedural accommodations are individually requested remedies to assert access to justice for persons with disabilities, taking into account their specific requirements



I. The Barriers Persons with Disabilities face to Access Justice in the EU

In focus – access to justice for women with disabilities

- Stereotypes that lead people to think they would be less credible
- Women with disabilities access less information on one's rights
- Women with disabilities are more at risk of sexual, physical and gynaecological violence than women without disabilities and men with disabilities.
- Legal remedies on the account of double discrimination are difficult to pursue.

In focus – abuse against children with disabilities

For children with disabilities there is also more risk to be subjected to violence and abuse. In Spain, as a report from the Mental Disability Advocacy Centre (now called the Validity Foundation) states that in 2011 23.08% of children with disabilities between the age of 8 and 15 were affected by domestic abuse, while among their peers without disability the equivalent figure was 3.87%.



II. The training needs of legal practitioners in the EU: how to ensure the situation improves?

Key professions around legal practitioners

- Not only legal operators in strictu sensu, therefore police, prison professionals, social services, medical staff or the general public should also be involved.
- Building networks with the person with disabilities and services and organizations around them is a must.
- Pre-litigation and post-litigation phases are as crucial in the judicial proceedings for the access to justice of persons with disabilities.
- Law enforcement forces and agencies. During the first contact with law enforcement agencies, there should be protocols to identify people with disabilities, whether they have a certification or not. And also to make sure that any hearing are adecuated to the UN Convention.
- Prisons Staff: At the moment of arriving in prison, solutions are needed for their everyday life and to foster their reinsertion in society.
- Disability support services, should be aware of the legal capacity and rights of their users.
- Other Key actors and general society



II. The training needs of legal practitioners in the EU: how to ensure the situation improves?

➤ Legal practitioners: Trainings needs

- Training and Rising awareness on the Rights of People with disabilities and the UN Convention
- All their training-life: Universities, Academic, Induction and Continues training.
- Theoretical and practical approach (legal clinics and mixed audiences)
- Commitment of the legal councils, platforms and associations
- Transversal and fragmental approach.
- The UN High Commissioner for Human Rights has recommended training programmes:
 - the provision of universal accessibility and procedural accommodations in the legal process;
 - overcoming gender- and disability-based stereotypes;
 - the rights connected to marriage, family, parenthood, fertility and relationships; and
 - ways to combat prejudice against persons with disabilities, particularly those with psychosocial and/or intellectual impairments.”

➤ Underrepresentation of persons with disabilities in the legal profession

➤ Barriers in national legislation



II. The training needs of legal practitioners in the EU: how to ensure the situation improves?

- **Underrepresentation of persons with disabilities in the legal profession**
 - Persons with disabilities should be included in any profession and sector of society. This should be also the case of the judicial sector
- **Barriers in national legislation:**
 - Legal capacity, the article 12 of the UNCRPD is not implemented in many countries
 - In addition, the provision of reasonable accommodation is not made mandatory and accessible to the legal practitioners in most countries.
- **The EU could work with Member States, Disabled Persons Organisations, and legal Associations to develop tools it could be a European Code of Conduct for legal practitioners in regard with working with persons with disabilities, and/or detailed plans as per when all the Courts of the EU should be fully accessible.**





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