Article 13: Illustrative indicators on access to justice

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<tr><th colspan="3">Article 13: Illustrative indicators on access to justice</th></tr>
<tr><th colspan="3">Right to access to justice[a]</th></tr>
<tr><th>Attribute/type of indicator</th><th>Equal access to and equality before the justice system</th><th>Participation of persons with disabilities in the justice system</th></tr>
<tr><td>Structure</td><td colspan="2">13.1: Legislation enacted relating to the justice system that is inclusive of persons with disabilities concerning its structure, organization, administration and procedures, and across civil and criminal sectors[b]
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[c]
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[d]</td></tr>
<tr><td rowspan="2">Process</td><td>13.4: Proportion of persons with disabilities who have gained access to free legal aid in all legal proceedings[e]
13.5: Proportion of requests by persons with disabilities for legal assistance and free interpreters being met (criminal and civil proceedings) annually
13.6: Proportion of persons with disabilities who have been provided with procedural and gender- and age-appropriate accommodations[f]
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
13.8: Number and proportion of court facilities, legal aid centres, police stations and so forth that are accessible to persons with disabilities, disaggregated by geographical location</td><td>13.9: Adoption of specific measures to promote the inclusion of persons with disabilities within the justice system and related institutions, including as judges, prosecutors, police and staff
13.10: Number of requests for reasonable accommodation and proportion of those provided to persons with disabilities in recruitment processes and/or to perform duties as an employee of the justice sector (e.g. the judiciary, law enforcement and State legal services)</td></tr>
<tr><td colspan="2">13.11: Number of accessibility standards adopted and applied to the built environment, transportation, and information and communication systems related to the justice system[g]
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 or type of procedure (civil, criminal, etc.) and role of the person concerned (applicant, defendant, witness, juror, etc.)
13.13: Number of awareness-raising campaigns and activities on the rights of persons with disabilities to have access to justice, including access to legal aid, victim support, available and effective remedies and redress; and proportion of population who gained access to those campaigns and activities, disaggregated by age, sex, disability,[h] profession and geographical location
13.14: Number and proportion of members of the judiciary, members of the legal profession and law enforcement officials trained on the Convention on the Rights of Persons with Disabilities, including on the human rights-based approach to disability, universal legal capacity for all persons with disabilities, combating harmful gender and disability stereotypes and</td></tr>
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	prejudices, the obligation to ensure procedural accommodations, and communication with persons with disabilities, including alternative means and modes of communication (see also indicator 10.13 on the Convention on the Rights of Persons with Disabilities) 13.15: Number of consultation processes undertaken on the design, implementation and monitoring of laws, regulations, policies and programmes related to the right to have access to justice, including for persons with disabilities, and proportion of persons with disabilities who participated in those processes, disaggregated by age, sex, disability and geographical location[i] 13.16: Budget allocated to and spent on measures to promote access to justice for persons with disabilities and their participation within the justice system, including explicitly on legal aid for persons with disabilities, training of judges, prosecutors and so forth, and provision of procedural accommodation for persons with disabilities 13.17: 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 type of mechanism, area of law/type of procedure (civil, criminal, etc.), substantive rights involved and remedies granted 13.18: Proportion of crimes against persons with disabilities brought before judicial authorities out of the total number of crimes, disaggregated by sex, age and disability of the victim	
Outcome	13.19: Proportion of public attendees at court who rate courts and services as highly accessible in their own language, including sign language (according to court surveys) 13.20: Number and proportion of persons with disabilities who gain access to victim support services, as compared to others, disaggregated by sex, age, disability and type of service 13.21: Unsentenced detainees as a proportion of overall prison population (Sustainable Development Goal indicator 16.3.2), disaggregated by sex, age and disability	13.22: Number and proportion of persons with disabilities who hold positions as judges, prosecutors or other roles within the justice system and related institutions, disaggregated by sex, age, disability, position and sector of the judiciary or justice system 13.23: Number and proportion of persons with disabilities who participate in legal proceedings within the justice system and related institutions as indirect participants (such as witnesses, including expert witnesses, and jurors), disaggregated by sex, age, disability, type of role and sector of the justice system

[a] For further 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).
[b] 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 (see article 12 of the Convention on the Rights of Persons with Disabilities)
- In line with article 5 (indicators 5.1 and 5.6) of the Convention on the Rights of Persons with Disabilities, 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 for persons with disabilities to be eligible to participate and work in judicial proceedings and within the judiciary on an equal basis with others

[c] This includes no denial or restriction in the law of access to 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 Convention on the Rights of Persons with Disabilities
- 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 or being deemed not credible)
- 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 Convention
- 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

[d] Diversion from criminal proceedings based on legal premises such as "unfitness to stand trial", "insanity defence" and "non-criminally liable" excludes persons with disabilities from substantive and procedural guarantees on the basis of impairment, which is contrary to article 13 of the Convention on the Rights of Persons with Disabilities, and leads to deprivation of liberty on the basis of impairment, which is contrary to article 14 of the Convention.

[e] 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 an indigenous background or belonging to a minority, and to ensuring that information and communications are accessible and in languages understood by them, including the provision of interpretation in sign language and indigenous and minority languages.

[f] 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, remote participation, video link testimony, assistive technologies and personal assistance, procedural flexibility to accommodate specific requirements for participation, such as changing a court venue, allowing sign language interpreters to participate in confidential jury debates, extending or adjusting procedural deadlines and other procedural formalities and time frames. See report of the Office of the United Nations High Commissioner for Human Rights on right to access to justice under article 13 of the Convention on the Rights of Persons with Disabilities (A/HRC/37/25, para. 24).

[g] 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 and 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 not create new barriers to persons with disabilities or prevent the provision of age-appropriate procedural accommodations or the required flexibility of proceedings. Accessibility of courts in terms of geographical location, distance and available transportation must also be considered.

[h] This refers particularly to 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 an indigenous background or belonging to a minority.

[i] 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 Convention on the Rights of Persons with Disabilities and general comment No. 7 (2018) of the Committee on the Rights of Persons with Disabilities, including consultation meetings, technical briefings, online consultation surveys, and 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 the provision of appropriate and accessible information
- Not withhold information or condition or prevent representatives of persons with disabilities from freely expressing their opinions
- Include both registered and unregistered organizations
- Ensure early and continuous involvement of persons with disabilities
- Cover related expenses of participants