

**Voices for Justice: Communicating with
victims of crime with disabilities**

Toolchest



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with disabilities

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01 Introduction

The justice system and its symbols are scary. In most places, courts are not about justice, they are about power. For anyone, facing these symbols of power is disabling. Start with thinking about de-focusing the power; the focus should be on justice. It is really about the humanisation of the justice system itself and making it accessible for all.

Gábor Gombos, former member of the United Nations Committee on the Rights of persons with Disabilities and Senior Adviser to Voices for Justice project

Persons with disabilities face systemic, multifaceted, and discriminatory barriers to accessing justice. What does justice look like for a victim of sexual violence, whose credibility is questioned based on their psychosocial disability? How can a victim with an intellectual disability report a crime to the police if the officers cannot communicate properly with them? How do courts know what accommodations are required for victims with disabilities to attend court hearings safely and participate effectively in court proceedings?





This Toolchest has been created as part of the Voices for Justice project to address these questions and more. The Toolchest aims to provide practical information and guidance to ensure that people with disabilities who are victims of crime are able to report the crime, understand what is happening during the investigation, and give testimony in their case. The right to be heard and understood, to participate and be informed about investigation and courtroom processes, and to have access to the justice system are rights that all people have in national and international law. The Toolchest identifies the barriers to accessing justice experienced by victims with disabilities, and the practices and support that can help overcome these.

Much of the information in the Toolchest is relevant to all the audiences, but some is targeted to particular professionals and others to help them understand and meet their specific obligations to victims with disabilities. Equally important is developing cooperation across professions, including multidisciplinary teams, so that victims with disabilities do not become invisible or fall through the cracks in the system. In that sense, the message of the Voices for Justice project to 'humanise justice' is the responsibility of all who work in the system or find themselves in contact with criminal justice.

The contents of the Toolchest cover:

- The rights of people with disabilities who are victims of crime ([Chapter 02](#)).
- The barriers experienced by victims with disabilities ([Chapter 03](#)).
- How to provide accessible information and effective communication ([Chapter 04](#)).
- Individual assessment in the justice system ([Chapter 05](#)).
- Additional resources ([Chapter 09](#)).

The Toolchest is aimed at:

	People with disabilities who are or might be a victim of crime. This handbook provides a useful resource to help understand victims' rights and the roles of different professionals in the justice system.
	Legal professionals working in the justice system, including police, law enforcement, lawyers, prosecutors, court officials, judges (Chapter 06).
	Social workers, care professionals, informal carers and multidisciplinary teams who support people with disabilities, including social workers, health care workers, medical professionals, family members, friends (Chapter 07).
	Victim support services, and other specialist services providing support to crime victims, including hate crimes, gender-based violence, human trafficking (Chapter 08).

Checking and challenging assumptions about disability

This Toolchest details the barriers faced by victims with disabilities and the impact of limiting their access to justice. It is important to understand and think critically about why legal experts, social workers and other professionals in criminal proceedings are unable to address these obstacles and may even be responsible for creating some of the barriers.

There are some assumptions which are common and easily made about disability and what it means, and these should be challenged. One of the most common assumptions is the 'medical model of disability'. A medical approach to disability focuses on the individual as having a medical condition diagnosed by medical professionals and then treated with medical interventions. Many professionals, including legal and social work professionals, assume a medical model of disability. The focus is to reduce or eliminate the 'problem'. With this approach, the individual has to adapt to the help defined by others, often ignoring and disregarding people's needs while focusing on their incapacity. One implication of this is that a change in the behaviour of a victim with a disability, which might be their reaction to the crime they experienced, is attributed to their disability or diagnosis and is treated medically

rather than through the justice system. Another implication is that a person with a disability is judged as not credible as a witness or victim, even before an investigation into a possible crime starts. Overall, this approach can result in further harm and distress to the victim (secondary victimisation), who is already harmed by the crime.

A disability rights-based approach involves focusing on the rights and needs of the individual. This is expressed in the purpose of the UN CRPD:

To promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities, and to promote respect for their inherent dignity.

In the justice system, this means that the focus is on removing and reducing barriers faced by victims with disabilities and providing individualised support when necessary, guaranteeing that their human rights are respected and upheld. In practical terms, this means challenging assumptions that persons with disabilities may not be able to participate fully in the justice process. It means upholding and respecting the dignity of persons with disabilities, such as providing accessible ways for making complaints and reporting crimes, and including the testimony of persons with mental disabilities in court. It may also mean challenging the assumptions of professionals and those working in the justice system.

What do we know about crimes against persons with disabilities in the EU?

The United Nations defines persons with disabilities as ‘those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others.’¹

A victim is defined in the European Union’s Victims’ Rights Directive as a ‘person who has suffered harm, including physical, mental or emotional harm or economic loss which was directly caused by a criminal offence.’

People with disabilities face discrimination, human rights violations, poor prospects, and a lack of proper support. This is well documented by the United Nations Committee on the Rights of Persons with Disabilities, the European Court of Human Rights, the European Commission, as well as human rights organisations such as Validity and the European Disability Forum. The problem is not only environmental, with barriers such as lack of money and inadequate support, but societal perceptions which characterise people with disabilities as different and not capable. As a consequence, people with disabilities are often treated as passive recipients of help, meaning they have little power and limited choices over their lives. They face multiple barriers which can limit them from participating fully and effectively in

¹ United Nations General Assembly, *Convention on the Rights of Persons with Disabilities: resolution/ adopted by the General Assembly, 24 January 2007*
<https://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/A_RES_61_106.pdf>.

society. Because of these circumstances people with disabilities are more vulnerable to abuse and assault, and are more likely to be victims of crime compared to those without a disability.

- There are an estimated 87 million people living in Europe with some form of disability². This means 1 in 4 European adults.
- Every year, an estimated 15% of Europeans or 75 million people in the European Union fall victim to crime³.
- Recent research reports that women with disabilities are two to five times more likely to be victims of violence⁴.
- The European Union Fundamental Rights Agency found that 19% of persons with disabilities report being physically attacked compared with 9% of the population as a whole⁵.
- People with psychosocial and intellectual disabilities experience specific forms of ill-treatment and abuse on the basis of disability, are detained against their will in institutions, and medicated without their consent⁶.

However, overall, there is very little data collected about the numbers or experiences of people with disabilities who are victims of crime. Research conducted by the Voices for Justice project in 7 EU countries found that, in practice, people with disabilities are often invisible in the justice system or unable to access justice. In turn, this also means that the policies, practices and resources are generally not in place to properly support people with disabilities to access justice. A main purpose of this Toolchest is to start to raise awareness, share knowledge and put in place some practices that work.

² Council of the European Union, General Secretariat, 'Disability in the EU: Facts and Figures' (*European Council and Council of the European Union*, 2022) <<https://www.consilium.europa.eu/en/infographics/disability-eu-facts-figures/>>.

³ 'Victims' Rights in the EU' (*European Commission* 2021) <https://ec.europa.eu/info/policies/justice-and-fundamental-rights/criminal-justice/protecting-victims-rights/victims-rights-eu_en>.

⁴ European Disability Forum, 'Ensuring the Rights of Victims with Disabilities' (*European Disability Forum*, 7 July 2020) <<https://www.edf-feph.org/newsroom-news-ensuring-rights-victims-disabilities>>.

⁵ Fundamental Rights Agency, Fundamental Rights Survey, 2020, Violence and harassment <<https://fra.europa.eu/en/data-and-maps/2021/frs>>.

⁶ Marcello Sacco, 2021. 'The Unconvicted Detention of Persons with Mental Impairments: The ECHR "Unsound" That Does Not Sound' page 153 <<http://elea.unisa.it:8080/xmlui/handle/10556/5277>>.

02 The rights of people with disabilities who are victims of crime

Within the European Union, all victims of crime have legally established rights, which apply equally to all people with disabilities. These rights are set out in three key legal documents:

- i) The **European Union's Victims' Rights Directive**⁷. The Victims' Rights Directive adopts a victim-centric approach to set out the obligations of Member States towards victims of crime. The aim is for all victims of crime to be treated in a respectful, sensitive and professional way, without discrimination of any kind, and with regard to an individual's specific needs. Many of the rights are about the provision of information, enabling effective communication and providing support, and are intended to make sure that victims are informed about their case, understand the criminal process, and are able to participate fully and effectively in investigations and proceedings.
- ii) The **Charter of Fundamental Rights of the European Union**⁸ sets out the common foundational values of the European Union in terms of human dignity, freedom, and equality. Article 21 Non-discrimination and Article 47 The right to an effective remedy and a fair trial are of particular relevance to victims of crime and persons with disabilities.
- iii) The **United Nations Convention of the Rights of Persons with Disabilities** (UNCRPD)⁹ is an international human rights treaty establishing equal rights for all people with disabilities. It has been ratified by all countries in the European Union and is therefore legally binding¹⁰. The four rights which are particularly relevant to victims of crime are:
 - Equality and non-discrimination (Article 5) – National governments must 'recognize that all persons are equal before and under the law and are entitled

⁷ Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA <<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32012L0029>>.

⁸ The Charter of Fundamental Rights of the European Union <<https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:C2012/326/02&from=EN>>.

⁹ United Nations General Assembly, *Convention on the Rights of Persons with Disabilities: resolution/ adopted by the General Assembly*, 24 January 2007 <https://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/A_RES_61_106.pdf>.

¹⁰ European Commission 'Disability Rights: EU and the Ratification of the UN Convention on the Rights of Persons with Disabilities' webpage <https://ec.europa.eu/commission/presscorner/detail/sv/MEMO_10_198>.

without any discrimination to the equal protection and equal benefit of the law' and ensure that 'reasonable accommodation provided.'¹¹

- Accessibility (Article 9) – National government must ensure that persons with disabilities have 'access, on an equal basis with others, to the physical environment, to transportation, to information and communications, including information and communications technologies and systems, and to other facilities and services open or provided to the public, both in urban and in rural areas.'
- Equal recognition before the law (Article 12) – National governments are obliged to ensure that 'persons with disabilities have the right to recognition everywhere as persons before the law' and that 'persons with disabilities enjoy legal capacity on an equal basis with others in all aspects of life.'
- Access to justice (Article 13) – National governments are obliged to provide 'effective access to justice for persons with disabilities on an equal basis with others, including through the provision of procedural and age-appropriate accommodations, in order to facilitate their effective role as direct and indirect participants, including as witnesses, in all legal proceedings, including at investigative and other preliminary stages.'

This provides a broad legal framework within which the rights of victims with disabilities must be upheld, further supported by a range of other legislation relating to non-discrimination and equal access.

Victims' rights and disability

According to the Victims' Rights Directive: 'Member States should ensure that victims with disabilities are able to benefit fully from the rights set out in this Directive, on an equal basis with others, including by facilitating the accessibility to premises where criminal proceedings are conducted and access to information'. These rights include¹²:

- **Right to understand and be understood:** all communication with victims must be provided in a simple and accessible format. The form of communication must be adapted to the specific needs of every victim, including, for example, needs related to age, language and any disability.
- **Right to information:** victims must be informed about the types of support they can get, how to make a complaint, how they can get protection and legal advice. They

¹¹ The *UNCPRD* definition of reasonable accommodation: 'necessary and appropriate modification and adjustments not imposing a disproportionate or undue burden, where needed in a particular case, to ensure to persons with disabilities the enjoyment or exercise on an equal basis with others of all human rights and fundamental freedoms' see *UNCPRD Article 2 Definitions*
<<https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities/article-2-definitions.html>>.

¹² Věra Jourová, 'The Victims' Rights Directive – What Does It Bring?'
<https://commission.europa.eu/system/files/2021-12/eu_victims_rights_directive_factsheet_february_2017_en.pdf>.

should also be kept informed about their case, the trial if there is one, the final judgement or any other steps in the case.

- **Right to support:** victims have the right to access free support services, whether they report the crime to the official authorities or not. This means general as well as specialist victim support, including shelters, trauma support and counselling.
- **Right to participate in criminal proceedings:** victims have the right to participate and be heard in criminal proceedings and restorative justice processes. They should be informed about decisions in their case, how decisions that they disagree with can be reviewed and how they can claim compensation.
- **Right to protection:** victims should be protected from further harm or rights violations by either the offender or the justice system itself. This can involve introducing special protection measures, especially during court proceedings.

03 Barriers and challenges victims with disabilities experience

The justice system operates in a highly formalised and regulated way. Many of the procedures and practices are unfamiliar, stressful, and demanding. The specialised legal language and hierarchy can be intimidating and confusing, whether in a police station, a lawyer's office or a courtroom.

In addition to this already intimidating context, people with disabilities face barriers and challenges that can make it especially hard for them to access justice on an equal basis with others. Research conducted by the Voices for Justice project shows that persons with disabilities face systemic, multifaceted, and discriminatory barriers to accessing justice. Some of the most common barriers are outlined below.

Information and communication barriers

Analyses of publications provided by different public authorities related to criminal proceedings show that accessibility is a significant issue for several reasons. But mostly they are overcrowded with information, the language is too complex, the font is too small, the contrast too low and therefore they are not suitable for people with intellectual disabilities.

Voices for Justice, 'Victims of crime with disabilities in Slovenia' (2022) page 26

Information about their rights and the justice process is often provided in ways which are unclear, confusing, technical, or simply in formats where the information cannot be understood. Examples include:

- A victim with an intellectual disability was given a letter of rights in complex legal language which is hard for anyone without a legal background to understand. The letter of rights should be available in plain language or easy-to-read format;
- Someone who is blind or has a visual impairment Information was provided updates on their case in writing, so they needed someone to read it out to them This compromised confidentiality and privacy. The information should be sent by email, which would allow the use of a screen reader.

Physical and environmental barriers

He explains that the area [police station] is hardly accessible for a person with a disability and in such cases they carry out the interview at the parking lot.

Interview with an investigating police officer in Bulgaria, Voices for Justice, 'Victims of crime with disabilities in Bulgaria' (2022) page 29

Buildings can be hard or impossible to access for people with disabilities. This includes police stations as well courtrooms and support services. This makes it hard to access support, report a crime or participate in an investigation or trial. Examples include:

- A victim in a wheelchair who can access the court building but cannot use the lift or bathroom or waiting rooms;
- Someone living in an institution who does not have access to a private telephone to report a crime against them.

Attitudinal barriers

We live on the ground floor and we get harassed a lot. We called the police about it several times. We wrote a complaint to the police, because we wanted this harassment to stop. But there was no written reply. They say that we are weird.

Voices for Justice, 'Victims of crime with disabilities in Slovenia' (2022) page 27

Stereotyping, assumptions and prejudice can mean that people with disabilities are not treated equally or taken seriously during all stages of the justice process. A victim or witness with a disability may be considered not credible as a witness, which can mean a crime is not even investigated. Police officers, judges, lawyers, prosecutors, court officials, and other professionals in the justice system are unlikely to have received training on disability in general, the legal rights of people with disabilities or how to communicate effectively.

- In Slovakia, an expert opinion meant the police did not even interview the victim because it was determined that 'the intellect deficit of the witness is so severe that it does not even meet the basic criterion for credibility.'¹³
- In Bulgaria, on the other hand, it is the police who might decide on the credibility of the witness: 'Our research reveals that sometimes victims with disabilities are being excluded without even an expert opinion but with the simple suggestion by a policeman from the investigation that the person looks unreliable.'¹⁴

¹³ Voices for Justice, 'Victims of crime with disabilities in Slovakia' (2022) page 44.

¹⁴ Voices for Justice, 'Victims of crime with disabilities in Bulgaria' (2022) page 31.

Legal barriers

The interviewed law-enforcement officers expressed quite different positions as to participation of victims with psychosocial and/or intellectual disabilities (especially those deemed legally 'incapacitated' by the court) in the proceedings and their possibility to testify. Some officers noted that such persons cannot be officially questioned,..... while others stated that they can be questioned as regular victims (except they would not be warned about the criminal responsibility for false testimony), however, the reliability of their testimony would be questioned.

Voices for Justice, 'Victims of crime with disabilities in Lithuania' (2022) page 31

People with disabilities have the right to equal recognition before the law, yet their legal capacity is often not recognised. Under international law, legal capacity is guaranteed for all people, including persons with disabilities¹⁵. Yet many national laws do not fully recognise this and may include laws which conflict with this, for example guardianship and criminal procedural law that discounts the testimonial capacity of persons with disabilities. In practice, this can mean that communication takes place with a guardian rather than directly with the victim. And it can also mean that the testimony of people with disabilities is discounted or not sought in the first place.

- A Judge in Bulgaria commented that a victim was not interviewed or informed about his rights, instead his guardian was informed. In practice, someone was informed about the victim's rights, but it was not the victim¹⁶.

Economic barriers

The victims are afraid to fill out an application for a lawyer as they are afraid that they will have to pay....The procedure for appointment of a lawyer is easier for the accused, at the discretion of the district prosecutor, while for victims there are more documents required.

Interview with an investigating police officer, Voices for Justice, 'Victims of crime with disabilities in Bulgaria' (2022) page 25

Recognising the economic barriers faced by victims with disabilities in the justice process is extremely important when providing support. This would include ensuring access to legal aid and recognising other costs such as transportation, personal assistance, medical, etc. Furthermore, the costs of sign language interpreters, screen readers etc. must also be accounted for in the provision of support.

¹⁵ United Nations Convention on the Rights of Persons with Disabilities, Article 12.

¹⁶ Interview with judge, Voices for Justice, 'Victims of crime with disabilities in Bulgaria' (2022) page 32.

Relationships with carers and/or guardians

Victims with disabilities may experience a particular challenge in reporting a crime when the perpetrator is a guardian or carer, or when a guardian or carer has an interest in protecting the perpetrator. For some people with disabilities, dependency on a guardian or carer for access to a telephone or to be able to move around freely, can prevent or limit their means to report a crime. Furthermore, they may be unaware that the abuse they are subject to is a crime or they may be unfamiliar with their rights under the Victims' Rights Directive.

- In Bulgaria, videos of violence against persons with disabilities living in a group home were released to the media. Some of the victims were under the guardianship of the director of the institution, the same person who was accused and found guilty of discrimination¹⁷.

Living in residential institutions¹⁸

People with disabilities living in institutions face two distinct but particularly high barriers to accessing justice. First, persons with disabilities in institutions generally have limited access to the outside world. They are insufficiently informed about their rights and do not have the means to report a crime or make a complaint. If they do, they are often not believed, or the authorities prefer to leave the issue for the institution to resolve.

The situation of persons with disabilities in institutions must also be considered. They are physically restricted from accessing the outside world and are under the direct supervision of staff.

Voices for Justice international report, 'Humanising Justice' (2022) page 70

The second barrier is that some forms of violence and abuse that take place within institutions (whether they are large institutions, residential care homes, or small groups homes) are not recognised as a criminal offense in national laws, even though such acts amount to torture and inhuman and degrading treatment in violation of Article 3 of the European Convention on Human Rights.

¹⁷ Voices for Justice, 'Victims of crime with disabilities in Bulgaria' (2022) page 36.

¹⁸ An institution is a 'any setting in which persons with disabilities cannot exercise their choice concerning living arrangements, and where persons with disabilities lack control and autonomy about their daily lives, irrespective of their size or the kind of services that are provided' and includes 'psychiatric institutions, rehabilitation centres, half way homes, group homes, sheltered or protected living homes, transit homes, nursing homes and other congregated living settings, including small sized institutions'. Definition contained in the United Nations Draft Guidelines on Deinstitutionalization, Committee on the Rights of Persons with Disabilities, September 2022.

[The constitutional court] did not even try to hear Ms. X's experience and find out the circumstances of her placement in the netted cage-bed; they relied solely on the hospital's report and the national legislation. For Ms. X this meant not only the inaccessibility of justice but also the inaccessibility of any support which should be available for victims of crime although the harm she suffered may not be less serious than the harm caused by more conventional offences.'

Voices for Justice, 'Victims of crime with disabilities in Slovakia' (2022) page 33

It is important for all authorities to recognise that people with disabilities living in institutions who are victims of crime have all the same rights under the Victims' Rights Directive and the UNCRPD.

Secondary victimisation

Once an expert requested a psychological report from me and I came in and I saw the victim's eyes, those eyes I'll never forget. Completely terrified expression. I could see she needed help. At the time, I didn't dare ask the expert to allow me to stay, but I could see the victim was completely terrified. All these issues, again and again. I understood her.

A social worker of a shelter facility for women, Voices for Justice, 'Victims of crime with disabilities in Slovakia' (2022) page 31

The justice system itself can re-traumatise or inflict new harms on a victim with disabilities. Victims with disabilities may be particularly vulnerable to secondary victimisation when they come up against barriers to participation which are distressing, abusive and discriminatory. This is also the case when justice processes and procedures are not adjusted or changed to accommodate the victims. At the same time, the risk of secondary victimisation should never be used as a reason for a victim with a disability to be denied access to justice. The obligation is on professionals in the justice system to remove and reduce barriers, including the risk of secondary victimisation.

- A man with an intellectual disability lived independently with social services support. He was the victim of fraud. The police did not pursue an investigation because the man could not identify the perpetrator and had voluntarily let the fraudster into his apartment. The family then initiated civil proceedings to remove the man's legal capacity, limiting his freedom and his access to social support¹⁹.

¹⁹ Voices for Justice, 'Victims of crime with disabilities in Slovakia' (2022) page 60.

04 Removing barriers and providing support

The justice system needs to introduce certain adaptations, accommodations, and support to help remove or reduce the barriers outlined above. This can include personalised support for the victim with disabilities, as well as changes to practices and procedures in the police station and courtroom – known as procedural accommodations. The purpose is to enable victims with disabilities to participate by allowing the justice process to progress in an accessible, safe, and non-discriminatory manner.

The United Nations ‘International Principles and Guidelines on Access to Justice for Persons with Disabilities’ sets out ten principles for the inclusion of people with disabilities in the justice system. It also provides practical approaches on how best to achieve this. While the Principles are aimed primarily at national authorities, much is also relevant for legal professionals, social workers, service providers and victim support organisations²⁰. The guidance provided below is based on the UN Principles, and in particular on some of the tools and practices which can be used to help reduce the barriers that people with disabilities experience, with an emphasis on providing accessible information and effective communication.

The UN Principles on Access to Justice are an excellent resource for victims with disabilities and for those working with or in contact with persons with disabilities:

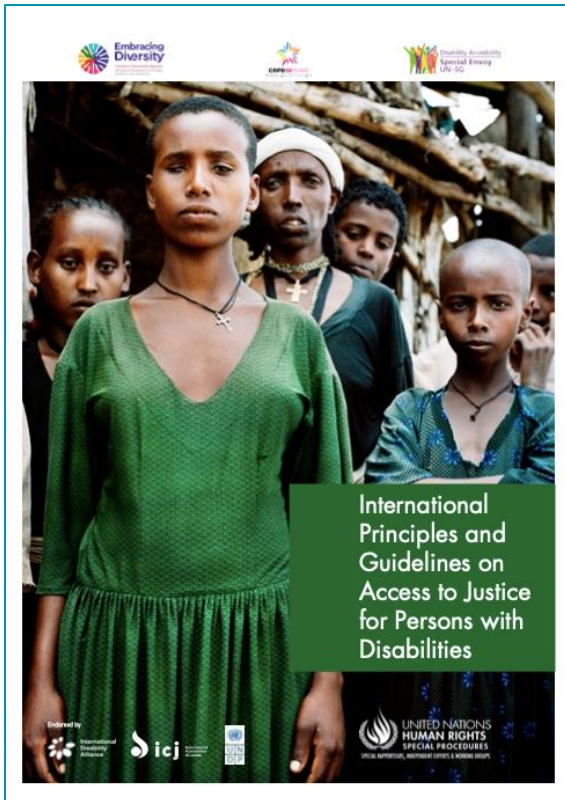
- ***International Principles and Guidelines on Access to Justice for Persons with Disabilities:***

<https://www.un.org/development/desa/disabilities/wp-content/uploads/sites/15/2020/10/Access-to-Justice-EN.pdf>

- ***Easy read version of International Principles and Guidelines on Access to Justice for Persons with Disabilities: The rights of people with disabilities. Making sure people with disabilities get justice:***

https://www.ohchr.org/sites/default/files/Documents/Issues/Disability/SR_Disability/GoodPractices/Access-to-Justice-easy-en.pdf

²⁰ In August 2020, the United Nations published the ‘International Principles and Guidelines on Access to Justice for Persons with Disabilities’. These Principles provide a practical and comprehensive framework for considering the rights and needs of people with disabilities in criminal justice systems. The Principles and Guidelines are intended to assist States and other actors to design, develop, modify and implement justice systems that provide equal access to justice for all persons with disabilities, regardless of their roles in the process... (page 6).



International Principles and Guidelines on Access to Justice for Persons with Disabilities	
<p>Principle 1</p> <p>All persons with disabilities have legal capacity and, therefore, no one shall be denied access to justice on the basis of disability.</p>	<p>Principle 6</p> <p>Persons with disabilities have the right to free or affordable legal assistance.</p>
<p>Principle 2</p> <p>Facilities and services must be universally accessible to ensure equal access to justice without discrimination of persons with disabilities.</p>	<p>Principle 7</p> <p>Persons with disabilities have the right to participate in the administration of justice on an equal basis with others.</p>
<p>Principle 3</p> <p>Persons with disabilities, including children with disabilities, have the right to appropriate procedural accommodations.</p>	<p>Principle 8</p> <p>Persons with disabilities have the rights to report complaints and initiate legal proceedings concerning human rights violations and crimes, have their complaints investigated and be afforded effective remedies.</p>
<p>Principle 4</p> <p>Persons with disabilities have the right to access legal notices and information in a timely and accessible manner on an equal basis with others.</p>	<p>Principle 9</p> <p>Effective and robust monitoring mechanisms play a critical role in supporting access to justice for persons with disabilities.</p>
<p>Principle 5</p> <p>Persons with disabilities are entitled to all substantive and procedural safeguards recognized in international law on an equal basis with others, and States must provide the necessary accommodations to guarantee due process.</p>	<p>Principle 10</p> <p>All those working in the justice system must be provided with awareness-raising and training programmes addressing the rights of persons with disabilities, in particular in the context of access to justice.</p>

All victims of crime with disabilities must be recognised and treated in a respectful, professional, sensitive, and non-discriminatory manner. This includes everyone who comes in contact with victims, such as judicial authorities, law enforcement agencies, legal professionals, court staff, victim support services, practitioners and compensation authorities.












There are many different barriers that persons with disabilities come up against, including physical barriers to buildings and transport, as well as inaccessible information and difficulties communicating. There are also many different impairments that people with disabilities have, such as visual or hearing impairments, mobility difficulties or intellectual disabilities. There are tools and approaches, some of which are outlined below, which can go a long way to reduce barriers and assist with communication and providing accessible information. Some tools will be more or less useful depending on the nature of the impairment and the barriers, the stage of the justice process, and the particular people involved.

Accessible information

Accessible information is information which can be understood by the individual or group for whom it is intended and is relevant to that moment in time. This includes ensuring that the language is not specialist or technical but can be understood by someone without knowledge of the law or the justice system. It can mean asking and answering questions about the information to be sure that the person has understood properly. And it will mean coming back to the information over time and phasing it so that the right information is given at the right time, to make sure that the victim is not overloaded or confused. When victims need to take action or make a decision, they should be provided with the information they need.

Individuals may also have preferences for how they receive the information, whether electronic, on paper, audio, audio-visual or with support from a facilitator.

There are a number of recognised ways in which information can be made accessible:

	Sign language;
	Video and audio guide;
	Augmentative and assistive communications (AAC);
	Telephone line advice and referral services;
	Accessible websites;
	Induction loop, radio or infrared systems;
	Amplification devices and document magnifiers;
	Closed captioning;
	Braille;
	Easy Read and plain language;
	Facilitated communication.

In addition to accessible information, under the Victims' Rights Directive, victims with disabilities have the right to understand the information provided. This means that the relevant professionals and authorities are responsible for ensuring that the information, its relevance, and any implications for them have been understood. Persons with disabilities may be reluctant to say if they do not understand something or are confused by the information provided. Creating a trusting professional relationship and engaging in dialogue with the victim is therefore critical. This helps ensure that victims and professionals can ask questions and check in on how well information has been understood.

Authorities should provide the following information in accessible formats:

- A letter of rights;
- Information about legal aid and how to access it;
- Information about victim support services and specialist support services;
- Information about compensation and how to apply for or access compensation;
- Legal notices, including summonses, subpoenas, writs, orders and sentences;
- Information about how justice procedures work, the role of the victim in that process, what to expect, and what to prepare.




Effective communication





Effective communication is more than providing accessible information, it is about dialogue and making sure that victims with disabilities are able to voice their interests, ask their questions and tell their stories. The aim is to provide the means by which people are able to participate fully in the justice process, including making a complaint, understanding and questioning a decision to prosecute or not, asking for and obtaining appropriate legal advice, and giving testimony.

Communication with victims of crime should be respectful, attentive, and sensitive to the personal circumstances of a person. Victims should be supported to report honestly and comprehensively what they experienced. They may need to communicate through interpreters, sign language, written forms, or through a communication intermediary or facilitator, and these should be provided. For some people, it may be helpful if there is someone with them who knows them, has spent time with them over a long period, and with whom they have developed a trusting relationship. For others, it may be easier for them to communicate with a stranger or in a more anonymous manner.





The UN Principles and Guidelines identify a number of communication aids and methods. Courts may be able to provide some of these routinely. Court officials and legal professionals should also work with specialists to provide what the victim needs to ensure effective communication.

Ensuring that all processes in the justice system provide the technical and other support necessary for parties, witnesses, claimants, defendants and jurors to use any form of communication as necessary for their full participation, including:

	Assistive listening systems and devices;
	Open, closed and real-time captioning, and closed caption decoders and devices;
	Voice, text and video-based telecommunications products;

	Videotext displays;
	Computer-assisted real-time transcription;
	Screen reader software, magnification software and optical readers;
	Video description and secondary auditory programming devices that pick-up audio feeds for television programmes;

Supporting communication, in addition to intermediaries or facilitators, through the use of third parties, including:

	Note-takers;
	Qualified sign language and oral interpreters;
	Relay services;
	Tactile interpreters;

Ensuring that all interpreters are able to interpret effectively, accurately and impartially, both receptively (i.e. understanding what persons with disabilities are saying) and expressively (i.e. having the skill necessary to convey information back to those persons), while using any necessary specialised or technical vocabulary (e.g. legal or medical) and respecting professional and ethical standards.

Procedural accommodations

‘Procedural accommodation’ is a technical term in the justice system referring to:

‘all necessary and appropriate modifications and adjustments in the context of access to justice, where needed in a particular case, to ensure the participation of persons with disabilities on an equal basis with others.’

UN International Principles and Guidelines on Access to Justice for Persons with Disabilities 2020, page 9

Procedural accommodations remove or lower the barriers that people with disabilities face so that they can exercise their right to participate in the justice system. Procedural accommodations will also provide individualised support to the person, in particular to ensure



effective communication (see above). It is mandatory to provide whatever procedural accommodations are needed to enable participation. These could be changes in court procedure, trial procedure, examination of evidence and testimony, recognition of alternative modes of providing testimony, etc.

Yes, hearings are sometimes made difficult, indeed, because it is harder to communicate more fluently with these victims who have disabilities, but I would not say, however, that case officers or prosecutors are not understanding towards victims of trafficking who have disabilities, on the contrary, I have even noticed in the hearings I have attended that they do manage and make an effort to be more patient and rely more on the support of those of us who are psychologists or who assist the victim to help them understand certain aspects, i.e. they take breaks during the hearing, ask us questions or seek our help to talk to the victim to try to clarify certain aspects. The hearings are indeed a bit more difficult, but I would not say that [indecipherable] discrimination against the victim.



Voices for Justice, 'Victims of crime with disabilities in Romania' (2022) page 28

There is an important distinction between procedural and reasonable accommodations. Reasonable accommodations are adjustments and adaptations required for persons with disabilities to exercise their right to participate fully and equally in society, for example, to attend school or to be able to work or live independently. Reasonable accommodations must be provided when there is no disproportionate or undue burden on the organisation or institution. In the case of the justice system, procedural accommodations are not subject to a test of disproportionate or undue burden and must be provided.

The most effective and efficient way to identify the required procedural accommodations is through an individual assessment that takes place in dialogue with the victim with disabilities. Such an assessment is likely to involve a multidisciplinary approach, bringing together the necessary legal, victim support, disability, communication, social work, and other expertise²¹. The following examples are taken from the UN Principles and Guidelines on Access to Justice, page 16:

	Adjustments to the pace of proceedings;
	Modifications to the method of questioning in appropriate circumstances, such as allowing leading questions, avoiding compound questions, finding alternatives to complex hypothetical questions, providing extra time to answer, permitting breaks as needed and using plain language;

²¹ In practice, this will depend on the exact role of the victim in the proceedings and this varies by nation state. In particular, the rights of a victim may depend on whether they are a witness or a party to the proceedings.

	<p>Use of pretrial video recording of evidence and testimony, if necessary, practical and possible, in such a manner as not to contravene basic rights, such as the right to confront and cross-examine witnesses;</p>
	<p>Allowing persons with disabilities, at all stages of the process if they so choose, to be accompanied by family, friends or others to provide emotional and moral support, without replacing, however, the role of an intermediary or facilitator.</p>

Supported decision-making

Supported decision-making is personalised support to make independent decisions. The support may be provided by an expert, professional, family member or friend. It involves communicating with the person with a disability by giving information, listening and helping them understand their choices, so that they can express their preferences and make their own decisions. This contrasts with ‘substitute decision-making’ when, for example, an expert, medical professional, guardian or lawyer decide on behalf of the person. Even when such a decision is judged by an expert or guardian to be ‘in the best interests’ of the person, this does not respect the rights of a person with disabilities to make their own decisions.

During the justice process, the person with a disability must be informed and communicated with directly. This ensures that they can make informed decisions about their case. The justice process is often unfamiliar to victims of crime, and people need to understand what to expect at each point of the process, to know what decisions they can make and how to make them, and to ask questions and get answers. This can include: understanding the decision to investigate and prosecute their case and how to challenge that decision if wanted; how they give testimony during a court proceeding and whether they have a preference for being in the courtroom, using a video-link, or giving a pre-recorded statement; what mode of communication they would like, for example, sign language interpretation, writing, or a communication facilitator or intermediary; how to make a complaint or claim compensation and what these processes involve.

Supported decision-making is a process which respects the legal capacity of persons with a disability who might otherwise have their legal capacity questioned or denied. Even if a person with a disability has a guardian, they retain their legal capacity. In practice, this means that the guardian cannot make decisions on behalf of the person, though they may have a role in facilitating communication. Supported decision-making can make all the difference in ensuring that someone with a disability is able to exercise fully their right to access to justice.

Intermediaries

Intermediaries are persons who work, as required, with justice system personnel and persons with disabilities to ensure effective communication during legal proceedings. They may also be known as registered or justice intermediaries or facilitators. They tend to be professionals, such as psychologists or social workers, with particular expertise in communication, such as speech and language therapists, clinical psychologists, or those from the special educational needs or mental health fields. Their role is specifically to facilitate communication, and their

duty is to the court. They are familiar with court processes and procedures, and they have a key role in recommending appropriate procedural accommodations to assist effective communication.

They support persons with disabilities to understand and make informed choices, and can play a key role in supported decision-making. They ensure that the justice process is explained and talked about in ways which victims can understand, and that effective communication can occur between victims and legal professionals. This may include taking regular breaks, asking questions in unambiguous ways, avoiding certain words, allowing long pauses between a question and answer, and understanding emotional cues that the victim may demonstrate so that undue stress can be avoided. Intermediaries are neutral and cannot act as an advocate or support persons for a victim with disabilities.

Sign-language interpretation

Sign-language interpretation may be an essential interpretation service for deaf or hearing impaired people. In some cases, communication can take place in writing, but if this is not effective, then sign-language is required. Given that there are multiple sign-languages, the victim should be consulted on what sign-language is required. Sign-language interpreters should be registered or professionally trained and understand the court processes. The victim should not incur any costs associated with the interpretation.

Augmentative and Alternative Communication (AAC)

Augmentative and Alternative Communication (AAC) are ways of communicating that do not involve talking. The forms of communication are developed, tested and validated by experts and people using them. This can include gestures, drawing, pointing to images or words, as well as more high-tech options involving speech-generating devices, computers and tablets. AAC may be used as a normal means of communication, or a temporary communicating method because of particular circumstances or preferences. Specialised AAC kits have been developed and can be made available, such as dolls, emotion cards and symbol sets. These approaches may be used in a victim support, police, legal or courtroom setting²².

Emotional and personal support

Under the Victims' Rights Directive, victims of crime have the right to emotional support provided by victim support services. They may also have the right to an emotional or personal support person being present in the courtroom during a hearing or trial as well as assistance in preparing for the occasion²³. This could be provided by parents, relatives, friends, victim support, specialist services, carers, or someone whom they know and trust. Some victims with disabilities might want a support item, such as an item of clothing, a 'stress' toy, or a religious symbol; for others, it might be an emotional support animal.

²² Julinda Beqiraj and others, *Access to Justice for Persons with Disabilities: From International Principles to Practice* (International Bar Association 2017).

²³ §66(2) Austrian Civil Procedure Code; Second Violence Prevention Act.

05 Individual Assessment and why it is important for victims with disabilities

Individual assessment is a necessary and appropriate process to ensure the full and proper participation of persons with disabilities in criminal proceedings.

Individual assessment should be used to identify the particular barriers that a person with disability experience as a victim of crime and their specific support needs. It determines how to remove or overcome the barriers, what support and procedural accommodations are necessary, and how to provide these. Ideally, it should take place from first contact with the relevant authorities. This must be an ongoing focus through all stages of proceedings to determine how to adjust communication, adapt proceedings, and guarantee access for victims with disabilities.

Limits of current policy and practice

In practice, however, national research by the Voice for Justice project found that individual assessment is rarely used. When assessment does take place, it is often ad hoc and inconsistent. More specifically, individual assessment is generally not recognised as a tool for guaranteeing the participation of people with disabilities in criminal proceedings.

The Victims' Rights Directive and much national level policy²⁴ tend to place an emphasis on individual assessment as a way of identifying and meeting the protection needs of victims of crime. As such, the right to an individual assessment is linked closely with the right to protection in the Directive²⁵. This focuses on the risks of intimidation and repeat or secondary victimisation rather than on the identification of communication and information barriers and the adoption of procedural accommodations.

Nevertheless, the two imperatives – for protection and participation – can and should be met through a systematic and multidisciplinary assessment process adapted and responsive to the individual and the requirements of the particular stage of the criminal justice process.

How to carry out an individual assessment?

The assessment of barriers and victims' individual circumstances must be carried out in a way that minimises inconvenience for victims, while respecting their dignity, current physical, psychological, and social situation. It should also account properly for the nature of the crime and the case. A multidisciplinary approach is required so the relevant expertise and experience are included in and contribute to the assessment process. Risks and/or fear of harm should be considered.

²⁴ Voices for Justice, 'Victims of Crime with Disabilities in Croatia' (2022) page 26.

²⁵ European Union's Victims' Rights Directive, Articles 22 and 23.

Responsibility for the individual assessment lies with the criminal justice authorities in charge of the different phases of criminal proceedings. However, in practice, the individual assessment process can be initiated, implemented and coordinated through victim support services, social workers, law enforcement, court officials, court-appointed experts, and other professionals in contact with persons with disabilities who are victims of crime. A particular type of qualified institution or professional can be mandated by law or court order to systematically conduct and update the individual assessment in criminal proceedings.

Some important circumstances to be assessed include:

- Barriers to participation: including environmental, attitudinal, information, economic;
- Personal circumstances: including age, gender, health, trusted person, living circumstances;
- Communication abilities and difficulties: speaking, reading, writing, understanding
- Risks and threats: previous victimisation, vulnerability to repeat victimisation, risk of secondary victimisation;
- Relationship with the suspect: personal relationship with the defendant/accused, dependency on the defendant/accused, guardianship.

There are existing models^{26, 27} and practices on how to carry out an individual assessment for victims in the justice systems. This is an area where policy and practice are developing and changing.

For victims with disabilities, the individual assessment should never be used as a way of assessing credibility or legal capacity. There are a number of more specific considerations to ensure that the assessment of victims with disabilities is respectful, sensitive and effective. An individual assessment should:

- Conducted in a **systematic** way from first contact with the justice system. The Information can be shared in a way that does not compromise the confidentiality of the individual and ensures that their needs are understood and met.
- Respect the **legal capacity** of the victim, and their will and preference. This applies equally whether a person with a disability has a guardian or not. If there is a guardian, the assessment process must be conducted in direct communication with the victim and not with the guardian; the guardian cannot make decisions on behalf of the victim, though in some circumstances they may be able to assist with the communication. Professional communication assistance/facilitation/interpretation or supported decision-making services should be used where necessary.
- Involve a **multidisciplinary** approach and team to include the correct people and expertise in the process. For people with disabilities, this may include a support person, a social worker, a communications expert, a lawyer, etc.;

²⁶ Victim Support Europe VICToRIIA (Best Practices in Victims' Support: Referrals, Information and Individual Assessment), *How to identify victims' support needs? Guidelines to develop an individual needs assessment* (2019) <https://victim-support.eu/wp-content/files_mf/1626337899GuidelinesfinalforprintF.pdf>.

²⁷ The French Ministry of Justice, *EVVI project guidance on individual assessment of victims of crime* (2013) <http://www.justice.gouv.fr/publication/evvi_guide_en.pdf>.

- Set out clearly the barriers that a victim with disability faces, and what support and *procedural accommodations* are necessary to overcome these barriers, including where responsibility lies for provision, and how these will be provided in practice;
- Take place *continuously*, so that needs and barriers can be identified and addressed at all stages of the process. This process should be a dialogue with a victim so that their will and preferences are understood and respected. Include review and assessment of whether the support services and procedural accommodations provided are effective in guaranteeing the rights of persons with disabilities to participate in their case and the justice system;
- Identify a particular *contact person* to whom the victim can always go to with requests for additional or different forms of support and procedural accommodations. This could be someone within law enforcement, victim support services, social services, court services.

06 Legal professionals – roles and responsibilities

...there are even fewer obligations on the court to provide information to victims with disabilities...Needless to say, with such general rules and no specific mention of disability, we can only rely on the level of professionalism of people working in the system and providing support in the hope that the support they provide would be tailored to any disability the victim might have and that they would recognise that there is a disability in the first place. In other words we depend on wishful thinking.

Voices for Justice, 'Victims of crime with disabilities in Bulgaria' (2022) page 27

At the national, EU and International levels, there is an interplay of different legal instruments, which set out binding obligations to criminal justice professionals in criminal proceedings to ensure the participation rights of victims in criminal proceedings. These are set out in [Chapter 02](#).

The Voices for Justice project found that the Victims' Rights Directive is poorly implemented at the national level for victims with disabilities. In practice, few professionals fully understand their obligations under the United National Convention on the Rights of Persons with Disabilities.

Obligations to uphold the rights of victims with disabilities in the courtroom

All actors in the criminal justice system play an essential role and have specific obligations to respect the rights of victims with disabilities, in line with the European Union's Victims' Rights Directive and the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD), depending on the criminal procedural stage. Cross-cutting obligations for all criminal justice professionals include:

- Obligation to treat victims with disabilities with respect and dignity, including by not discriminating against victims with disabilities on account of disability, gender, ethnicity, and age;
- Obligation to prevent and address risks of secondary and repeat victimisation, intimidation and retaliation;
- Obligation to adopt necessary administrative and procedural measures to accommodate victims with disabilities throughout criminal proceedings;
- Obligation to provide information and to communicate about rights, proceedings, and the case in ways which are appropriate and understandable to victims.

Failure to comply with these obligations amounts to discrimination under the Convention on the Rights of Persons with Disabilities and a violation of the Victims' Rights Directive. Most notably, procedural accommodations, as described in [Chapter 04, page 18](#), are an obligation on national authorities to guarantee victims disabilities equal access to justice and are not subject to a test of 'reasonableness' or 'undue burden'. As the Centre for Disability and Law and Policy at the University of Galway explains, the 'obligation to provide such accommodations in the context of access to justice 'cannot be mitigated by arguments about reasonableness and the extent of the burden they would place on the duty-bearers'²⁸ since the providers of such accommodations will inevitably be the State or public officials involved in the administration of justice.'²⁹

Police and Judicial Personnel

Accessible information and effective communication

At the reporting stage, police and other judicial personnel must enable victims with disabilities to report a crime and understand proceedings and their rights. To that end, they should treat victims with disabilities respectfully, without prejudice or stereotype, and adopt all necessary procedural accommodations, to ensure proceedings are fully accessible. This includes physical access to the police station or options to make reports through alternative means if building architecture does not allow victims with mobility impairments to access the building. This could be done remotely by collecting statements at a different location, for example a victim's home or a safe place that respects the victim's privacy. In addition, information must be provided in formats which are accessible to the person receiving it, such that the victim understands it. In particular, information about rights and proceedings should be provided and explained in a manner that is understandable for the victim with disabilities so that the victim can ask questions.

[For more information on accessible information, see [Chapter 04 , page 15](#)]

Showing respect to a victim and providing the right conditions for them to make a complaint or report may necessitate understanding certain aspects of the victim's specific circumstances and approaching them as an individual with personal needs and preferences.

One afternoon she found the inner strength and went to the police station. She came across a young police officer who was very polite and helped her report the crime. The first thing that the police officer said to her was "J., what is happening? You are a child of a colleague of ours!" "He always took the time to hear me out when I went to the police station."

Victim with psychosocial disability, Voices for Justice, 'Victims of crime with disabilities in Bulgaria' (2022)

²⁸ Eilionóir Flynn and Anna Lawson, 'Disability and Access to Justice in the European Union: Implications of the United Nations Convention on the Rights of Persons with Disabilities' (2013) 4 European Yearbook of Disability Law 7.

²⁹ Eilionóir Flynn and others, 'Access to Justice of Persons with Disabilities' (Centre for Disability Law and Policy at University of Galway 2019)
<https://www.ohchr.org/sites/default/files/Documents/Issues/Disability/SR_Disability/GoodPractices/CDLP-Finalreport-Access2JusticePWD.docx>.

Police also must provide information on how to access support services, legal aid, explanations of victims' rights, proceedings, and how to access support and protection. This should include a referral to victim support services or, where appropriate, to specialist support services.

[For more information on victim support services, see [Chapter 08](#), page **35**]

Identifying barriers

Police should collect preliminary personal data and information about the crime and the victim, including the identification of barriers in criminal proceedings. There is no obligation for someone to discuss or disclose if they have a disability. Instead, there should be a focus on what barriers a person faces in accessing the police, participating in an investigation, and attending a court hearing.

[For more information on the barriers experienced by victims with disabilities, see [Chapter 03](#), page **09**]

Individual assessment

The police may initiate or be involved in carrying out an individual assessment, in compliance with the Victims' Rights Directive, and specifically to identify the necessary procedural accommodations in criminal proceedings and how these will be resourced and implemented. A multidisciplinary approach to an individual assessment will be important for all support and accommodations to be identified. It may involve participation and input from victim support service, social work and other professionals, a support person or carer, family members, a person of trust, and communication experts.

The assessment should be done in dialogue with the victim and if necessary use supported decision-making and an intermediary or communication facilitator. These roles may be carried out by professionals, family members or guardians, but must be with the agreement of the victim with disability.

[For more information on individual assessment, see [Chapter 05](#), page **22**]

[For more information on supported decision-making, see [Chapter 04](#), page **20**]

[For more information on a multidisciplinary approach in supporting victims with disabilities, see [Chapter 07](#), page **31**]

Procedural accommodations

At the investigation stage and trial stage, police and judicial personnel should support the implementation of procedural accommodations to ensure victims with disabilities may communicate with a lawyer, as well as the prosecutor and judge. In coordination with social workers and case managers, judicial and court officials must ensure that interpreters and other professionals who facilitate communication with victims with disabilities are available. If police are involved in questioning the victim, ensure communication and physical environment is appropriate by planning the hearing with them beforehand.

[For more information on procedural accommodations, see [Chapter 04](#), page **18**]

[For more information on effective communication, see [Chapter 04](#), page **17**]

Prosecutors and Judges

At the investigation, pre-trial and trial stage, prosecutors and judges have a duty to guarantee the participation rights of victims with disabilities. They must first and foremost ensure that an individual assessment process has been conducted and, when necessary, updated to

identify barriers in criminal proceedings and how to overcome them. They should ensure the identified procedural accommodations are adopted. Accommodations might take different forms and require adjustments about: how a case is managed; how hearings and questioning are conducted; how hearings are scheduled; and how rooms, facilities, and equipment are used.

They must also recognise professionals and others who have a role in facilitating communication with victims with disabilities. This may include family members, carers, social workers, and victim support, but it must be a person in whom the victim trusts. The court may decide that communication facilitation is required, and this may take place in person or through video links. Where a victim has a guardian, the guardian cannot act or talk on behalf of the victim with a disability. Communication must be maintained with the victim themselves, even if facilitation by a third person or device is required. At all times, all parties must ensure that the wishes of the guardian do not replace a victim's will and preferences. All necessary measures must be taken to ensure the victim is supported to express their will and preferences.

The interesting thing for me was that throughout the whole pre-trial phase, the victim was neither interviewed nor even as a witness nor personally informed about any rights. Information about the rights was given in the standard way by means of a notification addressed to his guardian who was a person without any emotional or any other relationship with the patient, this was an employee of a social care home at which the victim used to reside, thus he was not interested in any way...it was formally noted that someone was informed but there was sufficient information that this person has not been in any contact with the victim.

Interview with a judge, Voices for Justice, 'Victims of crime with disabilities in Bulgaria' (2022) page 29

Communicating decisions made during the criminal process is especially important. This includes whether there is a decision to prosecute or not, as well as the final verdict in a trial. There are different examples of how judges and courts have communicated a judgment for example through judges writing decisions in plain language³⁰. The development of plain language summaries at the end of a trial facilitates understanding of what happened in the proceedings³¹. Another practice that aids understanding and communication is the organisation of cooling-down interviews immediately after questioning to explain what is going to happen next in criminal proceedings³².

³⁰ See for example in the UK: Jack (A Child : care and placement orders) [2018] EWFC B12; Dorset Council v A (Residential Placement: Lack of Resources) [2019] EWFC 62 (10 October 2019) <<https://www.bailii.org/ew/cases/EWFC/OJ/2018/B12.html>>.

³¹ Such is the case in Australia: Victoria Legal Aid, 'Submission to the Office of the High Commissioner for Human Rights: Article 13 – Access to Justice, Convention on the Rights of Persons with Disabilities' (10 May 2017) <<https://www.legalaid.vic.gov.au/sites/default/files/vla/vla-submission-to-the-office-of-the-high-commissioner-for-human-rights-article-13.docx>>.

³² See the International Criminal Court 'Rules of Procedure and Evidence' <<https://www.icc-cpi.int/sites/default/files/Publications/Rules-of-Procedure-and-Evidence.pdf>>.

Lawyers

Lawyers may represent victims with disabilities. This may depend on the availability of legal aid, how the victim with disabilities wishes to participate, and their formal role in the proceedings. Victims should be informed by their lawyer or different professional on how to access legal aid. A lawyer should act to protect the rights of the victim throughout criminal proceedings and ensure that the obligations of the criminal justice system set out in the Victims' Rights Directive and Convention on the Rights of Persons with Disabilities are upheld. A lawyer may be vital to ensuring that a victim with disabilities is fully informed and understands the proceedings and what is required and expected of them in their designated role, whether as a witness or a party to the proceedings.

Lawyers must act under instruction from the victim with disabilities. In practice, this may involve working with a communication facilitator. Where there is a guardian, and communication takes place through the guardian, the legal capacity of the person with a disability must be respected. To that end, lawyers must understand their client's situation, including the relationship between a victim and their guardians, their preferred means of communication, and their support network. The lawyer must first and foremost support the expression and follow their clients' will and preferences. Among the different practical steps that professionals have suggested for lawyers:

- Cooperate with social workers and victim support services to identify and provide the necessary support. Lawyers may participate in the individual assessment;
- Ensure that procedural accommodations have been identified in agreement with the victim, and are properly implemented during court proceedings so that the victims is able to participate;
- Support the victim to understand the different steps of criminal proceedings and their role at each stage, so that the victim is familiar with the court room and the different roles in the court, how they can prepare to give testimony, how to request the support they need or inform the court if they need a procedural accommodation. This is likely to involve cooperating closely with victim support services, or with social worker, family, or carers;
- Inform the victim of any decisions made in their case and how the victim can question decisions in a timely manner;
- Where a victim has a guardian, the lawyer must always respect the legal capacity of the victim and follow the instructions of their client, the victim. When necessary, the lawyer should ensure there is communication facilitation to ensure effective communication;
- Inform the victim of the final verdict and any implications that it has for them.

07 Social work and multidisciplinary teams – roles and responsibilities

In the Voices for Justice project, the profound absence of people with disabilities exercising their participation rights as victims and witnesses in the justice system in European Union Member States was described as a 'blank space'. Social workers, carers and others who work with or are in contact with persons with disabilities have a professional responsibility to support victims of crime who have disabilities to understand their rights and to participate in the justice system, to open up the 'blank space' so that victims with disabilities are visible and active. In this way, professionals can potentially transform the experience of victims with disabilities, ensuring that they have the knowledge and the support they need to report a crime, to respond to questions, to understand the investigation process, and to attend and participate in a court hearing and trial.

Victims with intellectual or psychosocial disabilities find a way. I think, or at least my experience suggests, it's always being advised. This means that social services play an immense role. Social workers from social services call us and say, 'I have a client here...' Sometimes the social worker comes in first to consult us, to see how our organisation works, or even calls to verify the information. And then the person will come herself because the point is to talk directly to the person, if at all possible. Because a lot of times, a person with a disability is in contact with these helpers, but they don't have all the information.

Interview with a lawyer, Voices for Justice, 'Victims of crime with disabilities in Czechia' (2022) page 39

Identifying crime

She never thought of reporting what was happening to the police. [...] she never imagined that this was some kind of crime, "I did not know it was something I should report". She also did not know how she would prove it and she was afraid that they might call her "prostitute", "crazy", "the stigma", you know.

Interview with a person with psychosocial disability who was a victim of sexual abuse 'Victims of crime with disabilities in Bulgaria' (2022)

Social workers, carers, and others in regular contact with persons with disabilities can be the first to notice that a crime may have occurred. This might be because there is obvious harm, for example, physical harm to the person or their property. Unusual or erratic behaviour,

unexplained fear or nervousness can also be signs something is wrong and that a person might be the victim of a crime.

A victim with a disability may reach out first to a carer or social worker with their complaint or concern about harm they have suffered. Some persons with disabilities depend on others to take care of them and have little power over their own lives, whether in an institution or domestic setting. They may not realise that they are a victim of a crime which they can report, or they may need advice on how to report the suspected crime. Social work professionals and others have a duty to ensure that people with disabilities are safe and supported. They may also have a legal obligation to report suspected crimes. Where this is the case, it should be done under the instruction of the person with a disability and with their full knowledge and understanding of the situation.

Crime in institutions

Crimes behind closed doors are especially difficult to identify and investigate. Institutions for people with disabilities often operate as isolated, separate entities in society. They can be challenging to access and monitor for professionals, and impossible to leave for residents. Research by the Voices for Justice project has identified the shortcomings of reporting, resolving and dealing with crimes in institutions. Abuse, violence, theft and other crimes are often minimised or not understood as important enough to be reported by staff and residents. Victims with disabilities are often not informed about their rights and not supported to assert their rights. Moreover, procedures are not clear, reporting a crime can take a long time, victims may experience retaliation from the perpetrators, or they may be intimidated not to make a report. Institutions may prefer to deal with the situation as an internal issue rather than open-up to an investigation. Most cases of suspected crimes in institutions do not reach competent authorities.

Multidisciplinary work in the criminal justice system

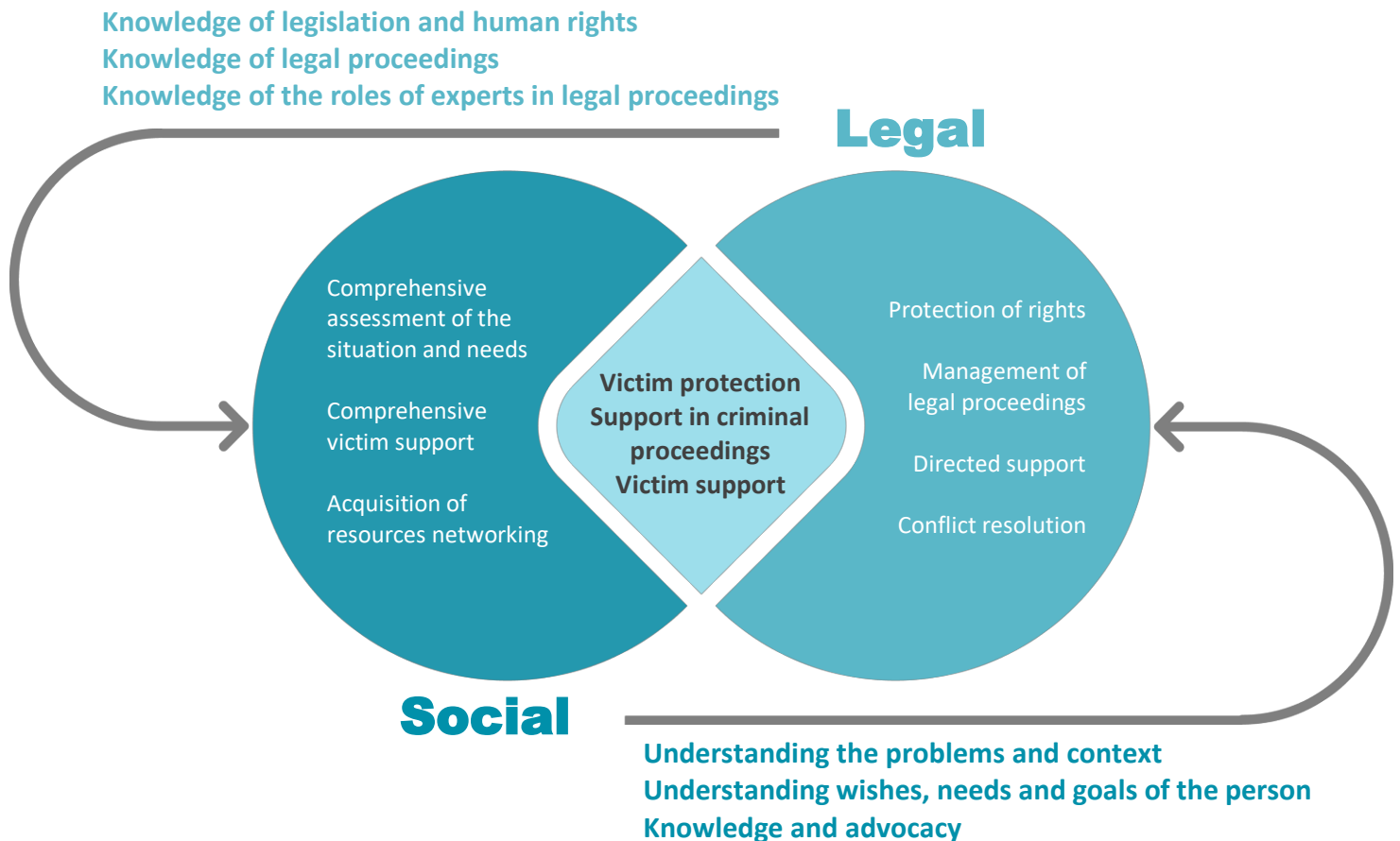
For people with disabilities who are victims of crime, collaboration between social workers, victim support services, and legal professionals is essential. All three professions play important roles in supporting and protecting individuals in vulnerable situations, but they also bring very different expertise with different purposes. Social work primarily focuses on resolving the causes and consequences of people's problems. At the same time, legal professionals focus on resolving social conflicts and achieving justice, and victim support facilitates and enables victims to access justice while minimising further harm.

The cooperation of social workers, legal experts, and victim support services is important for a better understanding of the situation of victims of crimes and the management of the judicial process. Such cooperation can significantly contribute to the protection of victims, support them in court proceedings, and help reduce the impacts of the criminal acts.

Given the number and extent of the barriers and challenges victims with disabilities face when accessing justice, outlined in [Chapter 03](#), it is especially important to adopt a multidisciplinary approach when assessing and providing support. This can include creating a multidisciplinary team, involving the interconnection, coordination and joint work of experts from different fields. Through multidisciplinary work, various experts exchange knowledge, information, resources, and views to solve specific and complex problems. Successful multidisciplinary

work is characterised by experts taking on different roles and appropriate responsibility for their field and tasks. To work effectively, a multidisciplinary team requires clear coordination and leadership. There should be one person the victim can always contact, and who is responsible for ensuring that the right team is brought together with the necessary expertise and authority.

Diagram: Elements of multidisciplinary teamwork



A multidisciplinary approach must ensure that the will and preferences of the person are respected, effectively helping to redress the power imbalances that exist in the justice system and are often so acutely felt by victims of crime. The support must be identified and provided in dialogue with the victim and under their instructions.

Connecting with experts and specialist services

There is a range of specialist services and experts which can be a resource and can contribute to a multidisciplinary approach, including:

- Victim support services;
- Specialist victim support services – such as for victims of hate crime, human trafficking, gender-based violence;
- Specialist lawyers or legal services (including free or affordable legal assistance and representation);
- Justice intermediaries and communication specialists who could facilitate and validate communications with victims with disabilities;

- General support services for people with disabilities;
- Self-advocacy or peer support groups and organisations.

Framework for assessing and providing support

Individual assessment is a foundation for identifying and putting in place what is necessary for a victim with disabilities to access justice. Yet, in practice and as noted on page 22, individual assessments are often not systematically or consistently carried out. This section is intended to provide a framework and guidance for how to approach an individual assessment. This includes how to identify barriers, how to assess what individual support and accommodations are needed, and how to put these in place. The contribution of social workers to this process can be:

- To help ensure that victims with disabilities understand their right to an assessment. This may include working with victim support services and/or legal professionals, including law enforcement;
- To inform the relevant authorities, including law enforcement and the courts, about the importance of an individual assessment in identifying how to remove barriers to justice, what procedural accommodations are needed, and what support might be necessary. This is an important way in which the authorities can fulfil their legal obligation to provide access to justice for victims with disabilities;
- To promote and facilitate a multidisciplinary approach which can ensure that the individual circumstances of the victim with disability are considered holistically and are met throughout the whole process of the criminal justice system. Different expertise may be required at different points of the process and a multidisciplinary approach will help address the changing needs of individual victims and the changing requirements of the particular point in the justice process.

Diagram: Framework for assessing and providing support to victims with disabilities



The framework above illustrates the types of support required for victims with disabilities, with the intention that victims participate and have a voice in the justice system.

Where responsibility lies for assessing, accessing and coordinating support varies and will depend on the national context. Social workers who are in touch with persons with disabilities, especially those with a professional relationship with a victim with a disability, will play a crucial role in all aspects of individual assessment and provision of support.

Assessment

Social workers have a role in ensuring that an individual assessment in the justice system happens and is conducted in a professional and multidisciplinary way. They can identify the necessary expertise, bring together, and coordinate a multidisciplinary support team.

[For more information on individual assessment, see [Chapter 05](#), page 22]

Accessible communication

Social workers might be the first professionals with whom a victim with disabilities talks or informs about harm caused or a possible crime. Social workers can then inform victims about their rights, refer them to victim support and specialist services, and provide direct support to report a crime.

[For more information on accessible information and effective communication, see [Chapter 04](#), page 15]

Advocacy and empowerment

The professional training and values of social work emphasise the human rights of people who may find themselves marginalised or not taken seriously for reasons of disability, among other factors. Social workers may play a role in informing people about their rights so that they are better able to ask for and represent their own interests. It also includes informing those with whom victims are in contact about their duty to guarantee the rights of victims with disabilities. This would include support services, lawyers, legal professionals and law enforcement.

Supported decision-making

Supported decision-making is a critical tool and expertise that social workers can use to help ensure that the legal capacity of persons with disabilities is upheld, and that persons with disabilities are able to make their own decisions through the justice process.

[For more information on supported decision-making, see [Chapter 04](#), page 20]

General support

Victims of crime suffer harm, including physical, mental or emotional harm or economic loss. This can present a heavy burden for people with disabilities who lack social power (especially those living in institutions) and who lack financial and other resources. In addition, negative experiences and lengthy criminal proceedings can also affect their health and circumstance. Social work needs to provide support before, during and after the proceedings. Although impactful, the criminal proceedings represent only a small part of a person's life. Social workers must also deal with reducing the effects of the crime and preventing future risks.

08 Victim support services – roles and responsibilities

The complexity and formality of the criminal justice system mean that victim support services are crucial to helping victims navigate the justice process and have their voices heard. Victim support also brings particular expertise about the trauma and impact of a crime on an individual, and is able to provide practical and sensitive support to enable a victim to cope better.

However, the Voices for Justice project national research found few examples of effective support for victims with disabilities by victim support services. Where support was provided, it tended to be because of a particular individual's knowledge and actions rather than because there was an accessible and professional service available to victims with disabilities. There may be specialist services available to victims of particular crimes, such as human trafficking, hate crime, and gender-based violence. However, these are also often ill-equipped to support the particular circumstances of victims with disabilities. As a staff member of victim support for women in Czechia reported:

Women with intellectual or psychosocial disabilities don't really turn to us. You could say very little. And we may wonder why. Why they can't even get to this counselling service. Or it's definitely an incentive to us as well. For us, the question is then how much we would be able to provide the service in a way that makes it well accessible. Now, I think about a client with a visual impairment, there's a pretty good way to handle it. But with intellectual or psychosocial disability, I wouldn't know how to proceed. I must admit that the service is not that accessible...

Voices for Justice, 'Victims of crime with disabilities in Czechia' (2022) page 45

In seeking to create a more victim-centric approach to justice, the European Union's Victims' Rights Directive gives a central role and duties to victim support services. These roles are detailed in Articles 8 and 9 of the Directive as the right to access victim support services and the right to receive support from victim support services, and, as for all rights contained in the Directive, this includes victims with disabilities:

- Free and confidential support services and specialist support services which are 'in the interests of the victims before, during and for an appropriate time after criminal proceedings' (Article 8, para 1);
- Access to victim support services is not dependent on a victim making a formal complaint to the authorities;

- Support services should include as a minimum the following:
 - information about their rights as a victim;
 - how to access compensation schemes;
 - information about their role in criminal proceedings, including preparation for attendance at trial;
 - information about and, where appropriate, referral to specialist support services;
 - emotional and/or psychological support;
 - advice on risks and prevention of secondary and repeat victimisation.

This chapter is intended to give guidance on the particular role that victim support services should and can play for victims with disabilities, and, in conjunction with earlier chapters, on how to provide support and assistance to victims with disabilities.

Providing accessible support and information

Victim support services may be a first or early contact for a victim with disabilities. Therefore, it is crucial that support services are accessible and can provide the needed support. This is likely to involve other professionals and service providers; it may also involve family members, friends and others in contact with persons with disabilities.

Victims with disabilities face a number of barriers when trying to access support services in general and the justice system in particular. The following barriers are identified in the United Nations International Principles and Guidelines on Access to Justice for Persons with Disabilities, 2020:

- Restrictions on the exercise of legal capacity;
- Lack of physical access to justice facilities, such as courts and police stations;
- Lack of accessible transportation to and from these facilities;
- Obstacles in accessing legal assistance and representation;
- Lack of information in accessible formats;
- Paternalistic or negative attitudes questioning the abilities of persons with disabilities to participate during all phases of the administration of justice;
- Lack of training for professionals working in the field of justice.

[For more information on the barriers experienced by victims with disabilities, see [Chapter 03, page 09](#)]

In overcoming these barriers, the role of victim support involves:

- Emotional and/or psychological support which depends on effective two-way communication with victims with disabilities.
- Accessible information about their rights and the justice system, for example, easy read, plain language, audio, braille, and sign language. If an appropriate accessible format is not available, victim support can work with social workers, communication

experts, family members, disability services organisations, and self-advocates to communicate with victims.

[For more information on accessible information and effective communication, see [Chapter 04](#), page **15**]

Carrying out an individual assessment

Victim support services may carry out an individual assessment as part of their own process to identify the needs of an individual victim and put the proper support in place. Such an individual assessment may also be carried out as part of the obligations set out in the Victims' Rights Directive under Articles 22 and 23 for an assessment of, but not exclusively, protection needs of the victim in the criminal justice process.

In practice, for a victim with a disability, an individual assessment is an invaluable process to identify the barriers and what support and procedural accommodations are necessary to ensure access to victim support service and to the justice system. For victim support and the justice authorities, an individual assessment is an important tool in making sure they know what to put in place so that they are able to fulfil their legal obligations to victims with disabilities.

[For more information on individual assessment, see [Chapter 05](#), page **22**]

Contributing to a multidisciplinary approach

A multidisciplinary approach is crucial to victims with disabilities whose life circumstances, needs and barriers are often complex. Victim support services and specialist support services for victims may be part of a multidisciplinary team or approach in working with a victim with disabilities. Victim support may initiate and/or coordinate a multidisciplinary team, but this depends on the mandate of professionals in the criminal justice system. A victim support worker may also act as a primary contact for a victim as they participate in the justice system.

[For more information on multidisciplinary teams, see [Chapter 07](#), page **31**]

Facilitating access to procedural accommodations

Victim support services may act as a facilitator, working with victims with disabilities and professionals in the justice system. The focus is on ensuring that there is a proper understanding of the barriers to access with the relevant responsible authorities, and provision of procedural accommodations and individual support . This can include law enforcement, lawyers, prosecutors, court officials, and judges. Similarly, victim support may work closely with legal professionals and officials to assist with how to provide the necessary support and reviewing it so that support is timely and relevant to the stage of the criminal process and proceedings, as well as to the particular needs of the individual and barriers.

I provided support to a client with an intellectual disability who was the victim of long-term financial abuse and later even kidnapping and deprivation of liberty. I knew she would need a sensitive approach, so I informed the police beforehand. I was told we had to report the case to the district. I asked beforehand for an empathetic police officer to be assigned to us. The police officer was really good - he didn't show any disbelief for the victim, he questioned her in a way that calmed her down, took breaks.

Victim support worker, Voices for Justice, 'Victims of crime with disabilities in Czechia' (2022) page 45

This facilitation role can be critical to enabling a victim with disabilities to access justice and assisting the relevant authorities in fulfilling their obligation to respect the rights of victims with disabilities to access justice.

[For more information on procedural accommodation and supported decision-making, see [Chapter 04](#), page [18](#)]

09 Other resources - where to find help and assistance

Country specific information

- Victim support services;
- Crime-specific support services (e.g. gender-based violence, human trafficking, hate crime);
- Disability rights and human rights organisations;
- Organisations of people with disabilities: can include peer support or self-advocacy organisations/informal groups;
- Professionals and experts such as social workers, psychologists, doctors, teachers, and communication experts.

Voices for Justice

All project materials, including conference recordings are available at: <https://validity.ngo/projects-2/voices-for-justice/>.

National reports

All national reports are available in English, in the national language, and in English Easy-to-Read:

Bulgaria	Victims of crime with disabilities in Bulgaria https://validity.ngo/wp-content/uploads/2022/04/National-finding-report-Bulgaria-en-220426-1.pdf
Croatia	Victims of crime with disabilities in Croatia https://validity.ngo/wp-content/uploads/2022/04/National-finding-report-Croatia-en-220421.pdf
Czechia	Victims of crime with disabilities in Czechia https://validity.ngo/wp-content/uploads/2022/04/National-finding-report-CZ-en-2-220422.pdf
Lithuania	Victims of crime with disabilities in Lithuania https://validity.ngo/wp-content/uploads/2022/04/National-finding-report-litvan-en-2-220426-1.pdf

Romania	Victims of crime with disabilities in Romania https://validity.ngo/wp-content/uploads/2022/04/National-finding-report-Romania-en-220427.pdf
Slovakia	Victims of crime with disabilities in Slovakia https://validity.ngo/wp-content/uploads/2022/04/National-finding-report-Slovakia-en-220424.pdf
Slovenia	Victims of crime with disabilities in Slovenia https://validity.ngo/wp-content/uploads/2022/04/National-finding-report-Slovenia-en-220426-1.pdf

Humanising Justice, 2022

International report from the Voices for Justice project:

Full report	https://validity.ngo/wp-content/uploads/2022/09/International-syntesis-report-EN-new-footnote-220907.pdf
Executive summary	https://validity.ngo/wp-content/uploads/2022/06/Executive-summary-EN-FINAL_print_-220616.pdf
Easy-to-Read Executive summary	https://validity.ngo/wp-content/uploads/2022/06/ETR-Voices-for-Justice-Executive-Summary.pdf

Projects

There are several European projects with relevant information and tools for victims with disabilities. Some of these are listed below:

BeSafe	Enabling educators who are providing education to persons with intellectual disability to mainstream the information about cyber violence into their educational programmes and empower persons with intellectual disabilities to stay safe online. An especially relevant publication is: 'Guide for Police on how to Interact with People with Intellectual Disabilities, 2019. http://besafe-project.eu/en/project/
Dignity at Trial	Enhancing procedural safeguards for suspects with intellectual and psychosocial disabilities. https://www.mirovni-institut.si/en/projects/impair-enhancing-procedural-rights-of-persons-with-intellectual-andor-psychiatric-impairments-in-criminal-proceedings-exploring-the-need-for-action/

EstAR	Enhancing Stakeholder Awareness and Resources for Hate Crime Victim Support. https://www.osce.org/odihr/hate-crime-victim-support
EVVI	Evaluation of Victims, developing good practice in the assessment of individual victims in the justice system. http://www.justice.gouv.fr/publication/evvi_guide_en.pdf
Just4All	Promoting access to justice for persons with disabilities by raising awareness among legal practitioners on the needs of people with disabilities and developing training for legal practitioners on that topic. https://www.just4all.eu
OPSIDIANET	Making sure people with intellectual and psychosocial disabilities are accused of a crime to exercise their rights within a criminal investigation. https://opsidianet.eu
ReJust	Towards a more responsive victim-centred approach of the criminal justice system. https://heuni.fi/-/re-just#c873af92
Stay Safe	Preventing and responding to sexual violence against women with disabilities. https://staysafeproject.eu
VICTORiiA	Best Practices in Victims' Support: Referrals, Information, Individual Assessment. https://victim-support.eu/what-we-do/our-projects/previous/prjct-victoriaa/

Non-profit and human rights organizations

- European Disability Forum: <https://www.edf-feph.org/>
- European Network of Independent Living (ENIL): <http://enil.eu/>
- Fair Trials: <https://www.fairtrials.org>
- Inclusion Europe: <https://www.inclusion-europe.eu>
- Mental Health Europe: <https://www.mhe-sme.org>
- Validity Foundation: <https://validity.ngo>
- Victim Support Europe: <https://victim-support.eu>

International bodies

- European Court of Human Rights (ECHR, CEDH):
<https://echr.coe.int/Pages/home.aspx?p=home>
- European Union Agency for Fundamental Rights (FRA):
<https://fra.europa.eu/en>
- International Commission of Jurists:
<https://www.icj.org/>
- Office of the United Nations High Commissioner for Human Rights:
https://www.ohchr.org/en/ohchr_homepage
- OSCE Office for Democratic Institutions and Human Rights:
<https://www.osce.org/odihr>
- United Nations Committee on the Rights of Persons with Disabilities:
<https://www.ohchr.org/en/treaty-bodies/crpd>
- European Commission Victims' Rights Platform:
https://ec.europa.eu/info/policies/justice-and-fundamental-rights/criminal-justice/protecting-victims-rights/victims-rights-platform_en

International law and guidance

- European Accessibility Act (EU/2019/882):
<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32019L0882>
- European Union Charter of Fundamental Rights:
<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A12012P%2FTXT>
- European Union Disability Strategy, 2021-2030:
<https://ec.europa.eu/social/main.jsp?catId=738&langId=en&pubId=8376&furtherPublish=yes>
Easy read: <https://ec.europa.eu/social/BlobServlet?docId=23598&langId=en>
- European Union Victims' Rights Directive (Directive 2012/29/EU):
<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32012L0029>
Factsheet:
https://ec.europa.eu/info/sites/default/files/law/eu_victims_rights_directive_factsheet_february_2017_en.pdf
- European Union Victims' Rights Strategy (2020-2025):
https://ec.europa.eu/info/policies/justice-and-fundamental-rights/criminal-justice/protecting-victims-rights/eu-strategy-victims-rights-2020-2025_en

- United Nations Convention on the Rights of Persons with Disabilities:
<https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities.html>

Easy read:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/345108/easy-read-un-convention.pdf

Accessible PDF:

https://www.un.org/disabilities/documents/convention/convention_accessible_pdf.pdf

- United Nations International Principles and Guidelines on Access to Justice for Persons with Disabilities:
https://www.ohchr.org/sites/default/files/Documents/Issues/Disability/SR_Disability/GoodPractices/Access-to-Justice-EN.pdf

Easy read:

https://www.ohchr.org/sites/default/files/Documents/Issues/Disability/SR_Disability/GoodPractices/Access-to-Justice-easy-en.pdf

Glossary – what the words mean

Accessibility/Accessible

*Easy to use or be involved with*³³.

The principle of accessibility aims ‘to enable persons with disabilities to live independently and participate fully in all aspects of life’. It includes access to the physical environment (physical accessibility), as well as access to information and communications (cognitive accessibility) (UNCRPD Article 9).

Communication

‘Communication’ includes languages, display of text, Braille, tactile communication, large print, accessible multimedia as well as written, audio, plain-language, human-reader and augmentative and alternative modes, means and formats of communication, including accessible information and communication technology (UN CRPD Article 2).

‘Language’ includes spoken and signed languages and other forms of non-spoken languages (UN CRPD Article 2).

Disability

Persons with disabilities include those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others (UN CRPD Article 1).

Discrimination

*Treating someone worse than other people because of who they are or where they come from*³⁴.

‘Discrimination on the basis of disability’ means any distinction, exclusion or restriction on the basis of disability which has the purpose or effect of impairing or nullifying the recognition, enjoyment or exercise, on an equal basis with others, of all human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field. It includes all forms of discrimination, including denial of reasonable accommodation (UN CRPD Article 2).

³³ EasyRead Version of International Principles and Guidelines on access to justice for persons with disabilities. ‘Making sure people with disabilities get justice’, Section 6 ‘What the words mean’ <https://www.ohchr.org/sites/default/files/Documents/Issues/Disability/SR_Disability/GoodPractices/Access-to-Justice-easy-en.pdf>.

³⁴ EasyRead Version of International Principles and Guidelines on access to justice for persons with disabilities. ‘Making sure people with disabilities get justice’, Section 6 ‘What the words mean’.

Easy read (easy-to-read or EasyRead)

Easy read/Easy-to-read is written information which is accessible for people with intellectual and learning disabilities³⁵.

European Union's Victims' Rights Directive – VRD/the Directive

The Victims' Rights Directive lays down a set of binding rights for victims and imposes clear obligations on EU Member States to ensure these rights are fully accessible in practice. It establishes new rights which ensure all victims are 'treated in a respectful, sensitive & professional manner without discrimination of any kind based on any ground'³⁶.

Guardianship

Guardianship is a form of surrogate decision making, usually imposed after a court proceeding, that substitutes as decision maker another individual (the guardian) for the individual in question (called variously the ward or the allegedly incapacitated person)³⁷.

Intermediaries

Persons who work, as required, with justice system personnel and persons with disabilities to ensure effective communication during legal proceedings. They support persons with disabilities to understand and make informed choices, making sure that things are explained and talked about in ways that they can understand and that appropriate accommodations and support are provided. Intermediaries are neutral and they do not speak for persons with disabilities or for the justice system, nor do they lead or influence decisions or outcomes³⁸.

Justice

*The rules and laws that mean people behave in a way that is fair and equal for everyone*³⁹.

Legal capacity

*The capacity to be both a holder of rights and an actor under the law*⁴⁰.

³⁵ Just4All Glossary on the Rights of Persons with Disabilities <https://78dde82f-f3fc-4414-a854-627948964997.filesusr.com/ugd/e65341_3c2fe2e3929e4809bf1c8b0a851e9b33.docx?dn=Glossary%20on%20Rights%20of%20Persons%20with%20Disab>.

³⁶ European Union's Victims' Rights Directive (Directive 2012/29/EU) <<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32012L0029>>.

³⁷ Dinerstein, Robert D. 'Implementing Legal Capacity Under Article 12 of the UN Convention on the Rights of Persons with Disabilities: The Difficult Road From Guardianship to Supported Decision-Making.' Human Rights Brief 19, no. 2 (2012), page 8-12 <<https://digitalcommons.wcl.american.edu/cgi/viewcontent.cgi?article=1816&context=hrbrief>>.

³⁸ UN Access to Justice Principles, page 9 <https://www.ohchr.org/sites/default/files/Documents/Issues/Disability/SR_Disability/GoodPractices/Access-to-Justice-EN.pdf>.

³⁹ EasyRead Version of International Principles and Guidelines on access to justice for persons with disabilities. 'Making sure people with disabilities get justice', Section 6 'What the words mean'.

⁴⁰ EasyRead Version of International Principles and Guidelines on access to justice for persons with disabilities. 'Making sure people with disabilities get justice', Section 6 'What the words mean'.

Legal capacity to be a holder of rights entitles persons to full protection of their rights by the legal system. Legal capacity to act under the law recognises that person as an agent with the power to engage in transactions and create, modify or end legal relationships⁴¹.

Medical model of disability

The medical model has been the most dominant model of disability historically. This model views disability as an impairment or illness which requires treatment or fixing. Disability is considered by this model to be deviating from the normal health status. In following the medical mode, legislators and policy makers tend to focus on compensating disabled persons for their disabilities and providing them with ‘special’ segregated services.

Procedural accommodations

All necessary and appropriate modifications and adjustments in the context of access to justice, where needed in a particular case, to ensure the participation of persons with disabilities on an equal basis with others. It is directly linked to principles of non-discrimination⁴².

Reasonable accommodations

‘Reasonable accommodation’ means necessary and appropriate modification and adjustments not imposing a disproportionate or undue burden, where needed in a particular case, to ensure to persons with disabilities the enjoyment or exercise on an equal basis with others of all human rights and fundamental freedoms (UN CRPD Article 2).

Repeat victimisation

Repeat victimization, or revictimization, occurs when the same type of crime incident is experienced by the same – or virtually the same – victim or target within a specific period of time such as a year.

Secondary victimisation

Secondary victimisation means the victimisation that occurs not as a direct result of the criminal act but through the response of institutions and individuals to the victim⁴³. Secondary victimisation may be caused, for instance, by repeated exposure of the victim to the perpetrator, repeated interrogation about the same facts, the use of inappropriate language or insensitive comments made by all those who come into contact with victims⁴⁴.

⁴¹ Committee on the Rights of Persons with Disabilities, general comment No. 1 (2014) on equal recognition before the law, para. 12, <<https://atlas-of-torture.org/en/entity/6077tnbn376?page=3>>.

⁴² UN Access to Justice Principles, page 9 <https://www.ohchr.org/sites/default/files/Documents/Issues/Disability/SR_Disability/GoodPractices/Access-to-Justice-EN.pdf>.

⁴³ Council of Europe, Recommendation Rec(2006)8 of the Committee of Ministers to member states on assistance to crime victims. Para 1.3. <<https://rm.coe.int/16805afa5c>>.

⁴⁴ European Institute for Gender Equality, Glossary and Thesaurus <<https://eige.europa.eu/thesaurus/terms/1358>>.

United Nations Convention on the Rights of Persons with Disabilities – UN CRPD/CRPD/the Convention

The UN CRPD is an international human rights treaty which was adopted in 2006. The purpose of the present Convention is to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities, and to promote respect for their inherent dignity⁴⁵.

United Nations International Principles and Guidelines on Access to Justice for Persons with Disabilities – UN Access to Justice Principles

The International Principles and Guidelines on Access to Justice for Persons with Disabilities are a practical tool to support States in designing and implementing justice systems that provide equal access to justice for persons with disabilities, in line with international human rights standards.

Universal design

‘Universal design’ is the design of products, environments, programmes and services to be usable by all people, to the greatest extent possible, without the need for adaptation or specialized design. Universal design shall not exclude assistive devices for particular groups of persons with disabilities where this is needed (UN CRPD Article 2).

Victim

*The person who is harmed or injured by an accident or crime*⁴⁶.

In the EU Victims’ Rights Directive Article 2, victim is defined as follows:

- a natural person who has suffered harm, including physical, mental or emotional harm or economic loss which was directly caused by a criminal offence;
- family members of a person whose death was directly caused by a criminal offence and who have suffered harm as a result of that person's death⁴⁷.

⁴⁵ UN General Assembly, Convention on the Rights of Persons with Disabilities, 13 December 2006, A/RES/61/106, Article 1 (Purpose)
<<https://www.un.org/disabilities/documents/convention/convoptprot-e.pdf>>.

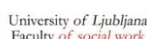
⁴⁶ EasyRead Version of International Principles and Guidelines on access to justice for persons with disabilities. ‘Making sure people with disabilities get justice’, Section 6 ‘What the words mean.’

⁴⁷ European Union’s Victims’ Rights Directive (Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012) Article 2 Definitions
<<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32012L0029&from=EN>>.

Voices for Justice

The Voices for Justice project focuses on the rights and experiences of people with disabilities who are victims of crime and how they access justice. It is an EU co-funded project taking place across 7 countries, carrying out research at the national level, identifying promising practices, creating practical tools for professionals and victims in the criminal justice system, and supporting international standards to protect the rights of people with disabilities who are victims of crime. The project references in particular the obligations set out in the European Union Victims' Rights Directive (2012/29/EU) and the United Nations' Convention on the Rights of Persons with Disabilities (CRPD). The project has the following partners:

- Coordinator: **Validity Foundation**
- Bulgaria: **Chance & Support Association**
- Croatia: **Victim and Witness Support Service (VWSS)**
- Czechia and Slovakia: **FORUM for Human Rights**
- Lithuania: **Mental Health Perspectives (PSP)**
- Romania: **Centre for Legal Resources**
- Slovenia: **Legal Center for the Protection of Human Rights and the Environment (PIC); Social Protection Institute of the Republic of Slovenia (IRRSV); and University of Ljubljana**



The full and formal name of the project is: Information and Communication: Cornerstones of justice for victims of crime with disability (878604 — InfoComPWDs).

<https://validity.ngo/projects-2/voices-for-justice/>

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