



Disability Benchbook Portugal Introduction



People with disabilities often face barriers in accessing the justice system. This can happen if they are victims, witnesses, or defendants. They may also find it difficult to interact with people working in criminal justice.



The United Nations Convention on the Rights of Persons with Disabilities (CRPD) is an important law. The countries signed up to it have promised to remove barriers and make sure that people with disabilities can access justice equally.



The laws help people with physical or sensory disabilities but the needs of people with intellectual or mental health disabilities are often overlooked. This happens even though other groups that may need extra support, like children or victims of violence, are provided for.



The **Guide for the Promotion of Access to Justice for Persons with Intellectual and/or Psychosocial Disabilities – Portugal** was created by FENACERCI. It aims to help people working in the criminal justice system in Portugal make sure that defendants with intellectual and/or mental health disabilities can fully take part in legal proceedings.



This guide is mainly for judges, lawyers, police, and other professionals. It may also be useful for the public, including people with disabilities, their families, and disability organizations.



The guide focuses on criminal justice, but the advice can apply to other legal situations, such as civil cases as well.



Access to the Criminal Justice System in Portugal



The law in Portugal does not clearly mention "**procedural adaptations**" as required by the CRPD. These adaptations could include providing information in easy-to-understand language or offering documents in accessible formats like Braille.



Procedural adaptations are changes made to help people with disabilities take part in legal processes. These changes can make it easier for them to understand and communicate.



In Portugal, some supports are available in the justice system. These include sign language interpreters and support for minors and crime victims. However, there is no clear mention of support for people with intellectual and/or mental health disabilities.



Even though the law does not clearly say so, people with disabilities can still take part in criminal proceedings. They are allowed to make statements and participate fully.



However, the law does not specifically allow these defendants to have a support person, like a family member or friend, with them at all stages. A judge may allow a support person, but this may not always happen.



If a defendant is found to have acted without understanding their actions, the law does not stop them from taking part in the legal process.



Right now, there are no special procedures in Portugal to identify if someone with a disability needs extra help during legal proceedings. This means that necessary supports might not be provided until later in the process. It is important to have things in place from the start to see what is needed and provide it.

Procedural Rights for Defendants with Disabilities



Right to Procedural Adaptations

- The state must make sure that procedural adaptations are available, as it says in the CRPD.



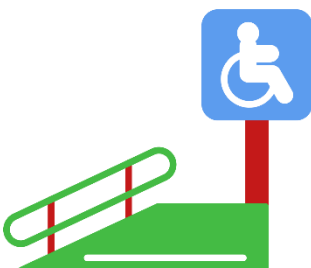
- These adaptations should be provided from the first contact with the police and throughout the full process. This makes sure that the trial is fair for defendants with disabilities.



- From the start, people with disabilities should be informed that they have the right to a support person. This person can be a family member or someone else they choose.



- The language used should be simple and easy to understand.



- Justice system buildings and spaces, including waiting areas, must be accessible and suitable for everyone.

Right to Information and Communication



- All people with disabilities have the right to make their own choices and decisions. They should have access to all the information they need from the first contact with law enforcement.



- Procedural adaptations should help with communication so that people with disabilities can understand their rights and duties. This allows them to fully take part in legal proceedings.



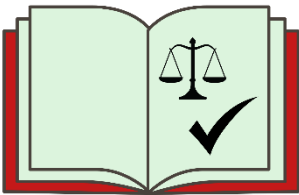
- Defendants with disabilities should have access to any communication support they need at every stage of the process.



- For example, a Sign Language Interpreter should be provided for people who are deaf. If a person cannot speak but can write, they should be allowed to answer questions in writing.



- Information given to the defendant must be clear and accessible, and suit their communication needs.



- Legal documents should be easy to read and understand, and everyone should have access to them.



- Portuguese law does not currently provide for an intermediary or facilitator, as recommended by the UN. This professional would help people with intellectual or mental health disabilities navigate the legal process. However, a judge may allow informal support from a family member, friend, or professional at any stage of the process.

Right of Access to a Lawyer and Legal Aid



- In Portugal, you always have the right to legal aid. However, it is important to make sure that lawyers understand how to work well with people with intellectual or mental health disabilities before the trial.

Right to Appear at Trial and the Presumption of Innocence



- It is important to make sure that the right to appear at trial and defend oneself is upheld for defendants with disabilities.



- Contact with the justice system should not be scary for people with disabilities. If needed, the courtroom or other spaces should be adapted to make them less formal and more comfortable.

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Full project description: <https://validity.ngo/projects-2/enabling-inclusion-and-access-to-justice-for-defendants-with-intellectual-and-psycho-social-disabilities/>

