

# National Bench Book - Spain

## Easy-to-read summary

### I. Introduction

This document is intended to  
for people with comprehension difficulties  
This is why it is written in easy-to-read language.  
In this document you will see  
some **highlighted green words**.

People with disabilities  
many barriers are encountered  
when they are charged by the criminal justice system.  
This means that they may have committed a crime.  
A crime is a serious act against someone  
and is punishable by law.  
A crime is, for example,  
to be robbed or mistreated.

Access to justice for persons with disabilities  
is recognised in the Convention on the Rights  
of Persons with Disabilities.  
The United Nations Convention  
on the Rights of Persons with Disabilities  
said that persons with disabilities  
have the right of access to justice  
on an equal footing with other persons.  
It also says that states  
laws that are contrary to the law must be changed  
to the Convention.

#### highlighted green words:

It means that nearby there are  
a box like this  
with the explanation of the word.

In recent years  
Spain changed many laws  
to bring them into line with the Convention.  
However, persons with disabilities  
still encounter many barriers  
for equal access to justice.

This National Bench Book  
that Plena Inclusion does  
recommends what we should do  
to ensure that all persons with disabilities  
may participate in **legal proceedings**.

This National Bench Book  
is suitable for all people  
such as persons with disabilities,  
their families or working people  
in the **administration of justice**.

**Legal proceedings:**

Steps taken by the court from the time a complaint or claim is filed until the judge rules on it in a judgement.

**Administration of Justice:**

It is the public service that dispenses justice.

It consists, for example, of the courts and tribunals.

## II. **Accessibility in judicial proceedings.**

In recent years Spain has changed its laws to ensure that judicial proceedings be more accessible to people with disabilities.

It first recognised in law that procedural adjustments need to be made when a person with a disability participates in legal proceedings.

Procedural adjustments are all necessary changes and adaptations to ensure the participation of persons with disabilities on an equal footing with others.

For example, having all the information on a trial in easy-to-read form.

It then recognised in the law to **cognitive accessibility**.

In addition, it acknowledged that justice must be cognitively accessible for all people, especially for people with disabilities.

### **Cognitive accessibility:**

A characteristic of things, spaces or texts that makes them understandable to all people.

Finally, it recognised in the law which must also be cognitively accessible proceedings in **criminal matters** involving persons with disabilities.

Also in proceedings in criminal matters procedural adjustments should be made.

### **Criminal matters:**

Issues that are related to justice, law, crimes and offences.

### III. Implementing the rights of persons with disabilities

#### 1. The right to participate in legal proceedings.

All persons with disabilities have the right to participate in the proceedings on an equal footing with others.

To this end, it is recommended that:

- All states should recognise their **legal capacity** and ensure that any necessary adjustments be made.
- All laws must be eliminated that allow to consider that a person with a disability does not have the capacity to participate in court proceedings.
- It must be ensured that all the decisions to be taken by persons with disabilities in the proceedings are taken by itself, with the support they need. Another person must not be allowed to make these decisions on behalf of the person with a disability.

#### Legal capacity:

A person's ability to own his or her rights and obligations without anyone making decisions for him or her.

## **2. Right to procedural adjustments.**

States must ensure that all procedural adjustments are made necessary for people with disabilities to be able to participate effectively in court proceedings.

Remember that procedural settings are explained on page 3.

To this end, it is recommended that:

- That procedural adjustments be made necessary from the outset.  
If possible, the following should be adopted before the police interview.
- The administration of justice must give all necessary support so that procedural adjustments can be made.
- All persons with disabilities should be informed that they have the right to have the following realised procedural adjustments.
- Tools must be created that allow a person to be reported as having a disability and which needs procedural adjustments to participate effectively.
- Persons working in the administration of justice should be aware of the rights of persons with disabilities to the procedural adjustments.

### 3. The right to information and communication in accessible formats

All persons with disabilities  
have the right to have all necessary supports  
to communicate effectively  
and to be informed in an accessible manner.

To this end, it is recommended that:

- The person with a disability should be given all necessary information to enable it to make decisions. Information must always be accessible.
- Access to a **facilitator** must be guaranteed to ensure effective communication from the outset.
- Persons working in the judiciary or police must ensure that the person with a disability understands their rights and the procedure in which they participate.
- Accessible information must be provided to people with disabilities about their rights at all stages of the procedure. Also about the rules that are in place, for example, in courts or prisons.
- A list of tools should be created for accessible communication that also explains how to use them.
- If the person with a disability needs some support to communicate, such support should be available throughout the procedure.

#### **Facilitator:**

A trained person who works to ensure that the person with a disability understands the procedure and can be understood and that all the adjustments that the person with a disability needs are made.

#### 4. Right of access to a lawyer and to free legal aid.

All persons with disabilities  
have the right to have a lawyer to defend them  
even if I don't have the money to pay for it.

To this end, it is recommended that:

- The lawyer must defend  
the person with a disability from the very beginning  
and throughout the procedure.
- Although the person with a disability  
cannot afford a lawyer,  
the administration of justice must ensure  
that he can have a lawyer to defend him  
with all the guarantees and in an **effective** manner.
- A list should be created  
with the details of the lawyers  
who are trained and aware of the rights  
of persons with disabilities.
- Accessible information must be provided  
to people with disabilities  
about their right to have a lawyer  
to defend him, even if he cannot afford to pay for it.

**Effective:**

That it does its job well or that it works  
well.

## 5. Right to be present at the trial and the right to the presumption of innocence.

Persons with disabilities have the right to  
to be present at the proceedings  
when they are accused of committing a crime.

They also have the right not to be held guilty,  
until proven at **trial** that they are guilty  
of the offence with which they are charged.

To this end, it is recommended that:

- Ensure that persons with disabilities  
accused of committing a crime  
can defend themselves in person at the trial.
- Assess whether for the person with a disability  
it is better to be present in the courtroom  
or connect via video.
- If the person connects via video  
it must be ensured that it is informed  
at all times of who participates in the video.  
It must also be ensured that time is well managed.  
so that the connection is not too long or  
that there are rest breaks.
- If the person connects via video,  
a good internet connection must be guaranteed  
for all persons to avoid interruptions.
- Although the person with a disability  
is connected via video, it should be given  
all the support you need to be able to communicate.

### **Trial:**

An act in which a judge or a group of  
judges called magistrates examine  
facts and consider whether people  
have complied with the law. At the end  
of the trial, there is a decision. This  
decision is called a judgement.