



# Access to Justice

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# WHO WE ARE



We are a **European non-governmental network organisation** committed to:

- the **promotion** of positive mental health,
- the **prevention** of mental distress,
- the **improvement of care**, advocacy for social inclusion and the protection of the rights of (ex)users of mental health services, persons with psychosocial disabilities, their families and carers.

« *We advocate for **positive mental health and wellbeing** and for the **rights of people living with mental ill health** and we raise awareness to **end mental health stigma** ».*



**30**

years of advocacy



**73**

member organisations



**30**

different countries



**5**

Strategic priorities

# BACKGROUND

# Background

- MHE position paper on **article 12 UN CRPD** on legal capacity
- Denial of legal capacity affects **access to justice**
- Access to justice as a **gateway to other rights** (employment, education, etc)
- **Equal participation in society** and particularly in justice system

# BARRIERS

# Concrete barriers – before proceedings

- **Legal barriers**
  - Denial of legal capacity
  - Complexity of legislation
- **Physical barriers**
  - Navigating complex physical environments
  - Accessibility of court rooms
- **Procedural barriers**
  - Legal costs and uncertain outcomes
    - ✓ Lack of access to legal aid
  - Inadequate or inaccessible information or advice
    - ✓ Unawareness of rights / how to obtain legal or financial assistance

# Concrete barriers – during proceedings

- **Procedural barriers**
    - Power imbalances
      - ✓ Authorities focus on disability rather than person
      - ✓ Authorities perform activities as formal routine
      - ✓ Face-to-face exchanges are exceptional
    - Length of proceedings and waiting time
    - Formalities: arcane rules and procedures
- > mere **spectators** than **participants**



# Concrete barriers – overall

- **Other barriers**
  - Stigma / Credibility (cfr devalued or disregarded testimonies)
  - Lack of training of judiciary

# WOMEN AND CHILDREN

# Women & children with disabilities

- **Credibility**
  - Example: complaints of rape made by women with psychosocial disabilities do not proceed to prosecution
- **Right to be heard**
  - Allowed to express opinion according to age and maturity

# SOLUTIONS

# What can be done

- **Affordable** and **independent** representation / Legal aid
  - ✓ Good preparation → effective participation
  - ✓ Counsel stands alongside person and not in their place
- Formal or informal **justice services**
- **Person of trust** / support person

# What can be done

- **Procedural accommodations (age and gender appropriate)**

People are often most strongly affected by the **procedures** used to reach the outcomes rather than the **outcomes** themselves
- ✓ Talk **with** people and not **about** people
- ✓ **Adjust settings** (example: go to private homes, courtroom arranged differently, etc)
- ✓ Allow diverse **communication methods** such as video testimony
- ✓ **Multidisciplinary** panels
- ✓ Less formal proceedings with **regular breaks**
- ✓ Convey information (for example from experts) in an **understandable way**
- ✓ '**Reality checks**' when necessary to clear up confusion

# What can be done

- Implement **mediation techniques**
  - How are persons **placed in setting** (example circle / judge sits higher / courtroom arrangement)
  - Structure of **initial presentations** and to whom are questions asked or who is allowed to speak first
- Legal changes together with **procedural/organizational changes**
- **Training and awareness-raising**
  - Involving persons with (psychosocial) disabilities

# QUESTIONS







**Thank you for your attention!**

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