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**EUROPEAN COMMISSION FOR THE EFFICIENCY OF JUSTICE  
(CEPEJ)**

**CHECKLIST FOR PROMOTING ACCESS TO JUSTICE**

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## Foreword

Access to justice requires the ability of all individuals to bring and defend legal claims before independent and impartial tribunals. Already referred to in Article 8 of the Universal Declaration of Human Rights and Article 2 of the International Covenant on Civil and Political Rights, access to justice is referenced in the European Convention on Human Rights (ECHR) and several other conventions<sup>1</sup>. Article 6 of the ECHR guarantees the right to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law, and Article 13 requires the availability of effective remedies for those whose Convention rights have been violated. The European Court of Human Rights (ECtHR) has emphasised that the right to a fair trial includes the ability to participate effectively in legal proceedings.<sup>2</sup>

Providing access to information, free and early legal advice, access to courts or alternative dispute resolution mechanisms are all crucial for the effective implementation of these guarantees and more fundamentally, to maintaining and promoting respect and trust in justice and the rule of law. To understand and adapt to the specific needs and particular situation of each litigant, promoting access to justice requires a user-centric approach. This entails:

- States proactively reaching out to citizens to understand their needs and to ensure they understand their legal rights, responsibilities and how to intervene in the legal/judicial process;
- justice being affordable, including the provision of state-funded assistance for those who would otherwise be denied a fair hearing;
- individuals being able to access courts physically or remotely/digitally;
- courts ensuring all people, particularly vulnerable persons, can overcome systemic barriers to safely and effectively participate in legal proceedings.

In a broader context, to be responsive to users'/individuals' needs, judicial authorities need to understand their expectations. This can be achieved by conducting periodic surveys<sup>3</sup> among the public as it allows to gather necessary information and measure the success and/or need for accessibility-related policies and strategies.

While many countries continue to implement legislation, policies and practices to promote access to justice, both internal and external system users comment that justice remains inaccessible to some. A lack of information, affordability, professional advice and support, remote facilities and complex processes are often cited as reasons for these comments.

To address this, the Working Group on quality of justice (CEPEJ-GT-QUAL) of the European Commission for the Efficiency of Justice (CEPEJ) was instructed to consider practical and effective solutions to ensure access to justice.

## INTRODUCTION

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This Checklist is intended to assist in promoting access to justice by enabling policy makers, authorities responsible for the administration of justice (court presidents, courts managers) and other officers of the court to reflect on and assess the extent to which current and proposed approaches, policies, practices and procedures optimise access to justice. Divided into four thematic areas, the Checklist adopts a user-centric approach to understanding and responding to the needs of those seeking justice at each step of the legal and judicial process.

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<sup>1</sup> Notably, the Convention on the Elimination of All Forms of Discrimination against Women (1979), the Convention on the Rights of the Child (1989), and the Convention on the Rights of Persons with Disabilities (2006) of the United Nations.

<sup>2</sup> *Standford v the United Kingdom* (Application no. 2341/94).

<sup>3</sup> In this sense, the European Commission for the Efficiency of Justice (CEPEJ) developed the Handbook for conducting satisfaction surveys aimed at court users.

1. **Access to general information** – Access to information is vital for people to understand their rights and responsibilities, as well as to navigate the legal and judicial process. The Checklist considers the availability to the public of information about legal and regulatory frameworks, including rights, responsibilities, the legal/judicial process, templates and forms, and case law/judgments through channels and in language they understand.
2. **Financial accessibility** – Acknowledging the costs of legal action and the need to ensure everyone can pursue and defend legal action without undue hardship, the Checklist asks respondents to consider the extent to which individuals without financial means can access legal advice and assistance.
3. **Physical access** – Reflects on whether everyone, without undue hardship and delay, can access public justice services including courts and other dispute resolution mechanisms physically or remotely.
4. **Accessible hearings** – Considers whether all litigants are provided the opportunity to be heard fairly and that appropriate arrangements are available - including the provision of support and the availability of amended procedures, particularly to assist the vulnerable users.

Considering the increase and impact of digitisation, the Checklist considers how the latter may improve access to justice by for example, allowing citizens to file claims or to follow their case online; access court decisions, and participate in proceedings and communicate remotely with the courts. However, the Checklist also asks respondents to reflect on the “digital gap” whereby some groups such the elderly, low-income households, or those unfamiliar with digital tools may face additional challenges in effectively accessing and using digital tools and services.

With the intention of inspiring and providing respondents with knowledge to act where improvements might be made to promote access the justice, the Checklist also contains examples of good practices and successful strategies implemented among Council of Europe member States.

## **ACCESS TO GENERAL INFORMATION**

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Access by individuals to information about their rights, responsibilities and the legal process are fundamental to knowing and understanding the avenues through which justice can be sought and how to navigate each avenue. Information must be accurate, comprehensive and up to date and it must also be provided through channels and via means that are readily accessible to all people. Accessibility also means comprehensibility of information, implying that it must be clear, legalese avoided or used in moderation and consideration given to the range of abilities and capacities among the audience the information is intended for.

### **Published information**

1. Are the following types of information made available to the public:
  - a. The legislation as a whole (laws and regulations)?
  - b. The case law and judicial decisions?
  - c. Individuals’ legal rights and responsibilities about:
    - substantive legal rights (e.g., criminal, civil, administrative, family, consumer and labour law);
    - procedural legal rights (e.g., right to a fair trial, legal representation, information about their case and appeal mechanisms);
    - legal responsibilities (e.g., obeying laws, truthfulness of the testimony, court attendance and jury service);

- access pathways (e.g., to legal aid and ways to obtain legal information assistance)?
  - If not, the following good practices should be considered:
    - distributing information brochures and booklets in hard and/or digital copy explaining the law and court process including fees.
    - establishing or supporting in-person, interactive online, and/or telephone centres/services, staffed by legally qualified officers who can provide legal and procedural advice.
    - providing general information online – through ministry, court and other justice sector entities websites, ensuring the material is adapted for online publication.
    - providing information for victims, the elderly, persons with disabilities, about mediation and other alternative dispute resolution (ADRs) on ministry of Justice website.
    - providing information at local level: local offices for access to law, local victims office;
    - developing and deploying a strategy to publish select judgments<sup>4</sup>.
- d. Functioning of the courts and the judicial process?
- If not, the following good practices should be considered:
    - Providing information on courts' website, about court offices, "360 Virtual Tour" resource on preparing for and attending a court hearing, as well as on information on remote court hearing, guidelines etc.
- e. Court document templates?
- f. Guidance about how to file a case with the court and any necessary supporting documents?
- g. Contact details for the Court and the range of ancillary support services people might require?
- h. How to access legal aid and/or other free/reduced cost legal assistance?
- i. An up-to-date list of lawyers, barristers, mediators/other alternative dispute resolution professionals?
2. Is this information:
- a. Provided in plain language?<sup>5</sup>
- b. Adapted for different audiences (e.g., children, people with different comprehension capabilities, people with disabilities, migrants, refugees or asylum seekers who speak a different language)?
- If not, the following good practices should be considered:
    - adapting information to minors: such as including a learning platform for children, a social network, child-friendly websites, a dedicated hotline
    - adapting information to victims of domestic violence: such as including

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<sup>4</sup> In this regard, see the compilation of the Council of Europe's '[Points for Consideration](#)' on the publication of judicial decisions.

<sup>5</sup> See for example : For a better integration of the user in the judicial systems: Guidelines and comparative studies on the centrality of the user in legal proceedings in civil matters and on the simplification and clarification of language with users (CEPEJ, 2021).

support centres, hotlines, or dedicated websites.

### **Communication channels**

3. Which channels are used to communicate information to the public:
  - a. Information desk at the court and/or ministry of Justice?
  - b. Phone lines of the court, the ministry of Justice, and/or other state entity?
  - c. Specialist “hotlines” and/or help desks for specific categories of people, such as juveniles or victims of violence?
  - d. Court, ministry of Justice and/or other state entity websites?
  - e. Social media channels managed by the courts and/or ministry of Justice?
  - f. Resources printed and distributed by the courts and/or ministry of Justice?
  - g. Regular public legal education events conducted by the courts and/or ministry of Justice to various audiences?
4. Are court staff trained to provide practical information (not legal information or advice) to court users?
5. Do parties receive information about the stage their proceedings have reached,
  - a. indirectly through their lawyer or legal representative?
  - b. directly by postal mail?
  - c. directly via email, a website or online application?
  - d. directly in person orally by court staff?

### **FINANCIAL ACCESSIBILITY**

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Crucial to enabling individuals’ right to a fair trial as enshrined in Article 6 of the ECHR is affordability of the process. Affordability is an integral component of accessibility as if the costs of justice are beyond the means of those who use it, justice becomes inaccessible. States should remain vigilant to affordability, identifying and addressing any “gap” between needs and available services.

While certain categories of people receive legal aid, most people are ineligible to receive state support (e.g., those whose income exceeds a specific threshold) and must therefore pay the cost of legal advice; court fees and/or taxes; other professionals in particular notaries and experts; and logistical expenses including transport to and from court. Those costs may in some countries be determined by the judge.

#### **Legal aid**

1. Are litigants without the financial means able to access free or at reduced cost legal advice and representation?
  - a. If yes, does this apply to all areas of the law?
2. Does legal aid cover all the costs associated with pursuing/defending legal action (including legal advice prior to initiating proceedings, experts, interpreters, document preparation, in-court representation etc)?
3. Do members of the bar association provide free legal advice and representation (also known as *pro bono*)?
  - a. If not, the following good practices should be considered:
    - i. Establishing a policy to foster a culture of free and prior legal advice by the private legal profession, motivating participation by publicly acknowledging individuals’

contributions.

- ii. Where relevant, formalising a partnership with the neighbouring State's judiciary and legal profession to offer free and prior cross-border legal advice by bilingual legal professionals from countries concerned.
4. Is the combination of legal aid and legal expenses insurance regulated?
  5. Can advice and support funded by legal aid be provided online?
  6. Can the legal aid allocation process take place entirely or partially online?
  7. Is legal aid granted to specific categories of individuals such as victims of domestic or sexual violence or defendants in criminal proceedings irrespective of their financial means?

### **Court fees, costs and taxes**

1. Can judges consider the cost of proceedings for the parties by limiting the measures to be taken (expert report, payment into court etc)?
2. If so, is this option used regularly or occasionally?
3. Are the costs of proceedings regulated?
4. Can courts:
  - a. Waive fees/taxes where they would cause financial hardship?
  - b. Determine which costs either party is liable to pay? If so, is this option used regularly or occasionally?

### **Lawyers' and experts' fees**

1. To ensure litigants are aware of legal costs, are lawyers/barristers required to inform their clients about the fees they will charge and to establish contracts with them?
2. Are there legal procedures for challenging the fees charged by lawyers/barristers and experts?

## **PHYSICAL ACCESS**

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### **Attending court in person**

1. Are courts located so that everyone can access a court without causing excessive difficulties regarding travel?
2. Can hearings be held in other locations away from the main seat of the court?
3. Are there clear signs/directions for everyone entering court buildings?
4. Do persons with disabilities or elderly people have easy access to court including reserved parking spaces and access ramps?
5. Are there transportation options to assist people to attend court?
6. Are there childcare services for people to attend court?
7. If required, do court staff accompany or connect elderly people or persons with disabilities to the courtroom?
8. Are the waiting and hearing rooms properly equipped and of a reasonable standard?<sup>6</sup>

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<sup>6</sup> A reasonable standard for court facilities is understood as providing a safe and secure environment for all users, with physical and informational accessibility for people with disabilities and other vulnerable groups, and maintaining a dignified, clean, and comfortable space with appropriate amenities.

9. Are the waiting rooms organised so that the opposing parties do not have to wait together?
10. Are there rooms in the court where the lawyers can meet with their clients in private?
11. Do courts ask those present in court to indicate any reasons why they should be given priority or if they have any special requirements?
12. Are reception/registry staff trained to assist and support persons attending court who might be stressed/fearful or a member of a vulnerable group?

### **Digitisation of pre-trial/hearing process**

It is common among Council of Europe member States for digital tools and services to be available but not taken up by a high percentage of court users. In addition to promoting ongoing digitisation and digital readiness, understanding and dismantling the barriers to digital uptake is also critical. To dismantle barriers, it is first necessary to understand the extent to which users have access to technology and the digital literacy skills to engage with court and broader justice services.

1. Has the court or justice ministry conducted a specific assessment of court users to identify digital literacy levels and access to necessary devices for e-filing?
2. Does the justice system provide mobile or remote digital hubs (e.g., in local libraries or municipal offices) to assist users in digitally accessing and participating in court proceedings outside of the main court building?
3. Are mandatory user-testing or accessibility audits conducted on all digital court services before public deployment?

To maximise the availability of digital tools and services:

1. Can claims/actions be filed electronically?
2. Are any filings mandated to be done electronically?
3. Do self-represented litigants who lack the necessary technology and skills have access to an alternative method of filing claims/actions or other documents? If not, the following good practices should be considered:
  - i. possibility for filing in paper,
  - ii. possibility to file from the court with the help of a court clerk.
4. Do self-represented litigants have access to in-person support services provided by the court/ministry of Justice?
5. Can judges, court staff and parties track cases electronically?
6. Does the court provide public computers or digital kiosks within court facilities specifically for users to access and file documents using the electronic court system?
7. Does the court provide easily accessible, step-by-step tutorials or guides (e.g., video, visual, or plain-language documents) dedicated to training users on how to navigate the e-filing portal and digital case tracking systems?

### **Attending court online<sup>7</sup>**

While participating in online court proceedings can deliver benefits of convenience and efficiency, this must be balanced against the risks to due process, open justice, and the ability of judges to assess witness credibility. States must ensure that any online option is not a barrier to vulnerable participants. Besides it remains unsuitable for serious criminal matters where the physical presence of all parties is often considered critical for a fair trial.

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<sup>7</sup> See Guidelines on Videoconferencing in Judicial Proceedings (CEPEJ, 2021).

1. Can hearings be conducted online/remotely using electronic identification and signature?
2. If parties must attend a specific location, are they able to access those locations without hardship?
3. Are a reasonable number of courtrooms equipped with the necessary online hearing technology?
4. Are judges and staff trained to use the technology?
5. Are safeguards in place to protect personal data and privacy?

### **Alternative dispute resolution (ADR)**

To reduce the time, cost and avoid stress of litigation, litigants might prefer to resolve their disputes through alternative mechanisms. A wide range of alternative dispute resolution (ADR) mechanisms is available in Council of Europe member States, each allowing distinct levels of party-autonomy over the process. The broader the variety of mechanisms available, the more choices individuals have to select the most appropriate mechanism for them and their legal issues. In some States, an attempt at ADR is mandatory before bringing a civil or labour case to court.

1. Are the following types of ADR<sup>8</sup> enabled in law:
  - a. Mediation
  - b. Conciliation
  - c. Arbitration
  - d. Negotiation
2. Are other forms of ADR enabled in law?
3. Is there a policy in courts to refer matters to mediation or other forms of ADR?
4. Is there an adequate number of ADR professionals to meet the need?
5. Do ADR professionals require formal education in their field and accreditation?
6. Are ADR mechanisms actively promoted by the government, including the courts?
7. May litigants choose between online and in-person ADR?

### **ACCESSIBLE HEARINGS**

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Participation to a fair and effective hearing is the cornerstone of justice. It's not enough for a court to exist; it must also provide a forum where every individual can participate meaningfully and safely. This section of the Checklist focuses on the practices and procedures that ensure to all litigants, especially vulnerable people, a genuine opportunity to be heard. It examines whether courtrooms and related processes are designed to be accessible, and fair, addressing the specific needs of self-represented litigants, non-native speakers, and other vulnerable groups to ensure they can navigate legal proceedings with dignity and confidence.

1. Are individuals given the opportunity to present their case and challenge evidence?
2. Is there an independent procedure for citizens to complain about discriminatory, undignified and/or disrespectful treatment by the court?
3. Are there remedies available for victims of judicial error?

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<sup>8</sup> See pages 5 and following of the CEPEJ Glossary (2020).

## **Specialist courts/divisions**

1. Are there specialist courts and/or panels/divisions within general courts?
2. If yes, within specialist courts/divisions:
  - a. Do judges and court staff have access to training in their field of specialisation?
  - b. Do judges and court staff in specialist courts/panels have access to information about the evolving social, economic and cultural contexts that influence the cases they adjudicate?

## **Interpreters and sign-language**

1. Are persons who do not understand the official language used in judicial proceedings entitled to an interpreter, free of charge if necessary?
2. Are those with hearing impediments entitled to a person who can interpret in sign language for them, free of charge if necessary?
3. Do the courts have an interpreting service, or can interpreters be called and attend court rapidly?

## **Self-represented litigants**

1. When a litigant appears in person, do judges and staff have sufficient time and training to:
  - a. Explain the dispute and the process the matter will take in plain language?
  - b. Accommodate the slower pace a hearing/trial might take?
  - c. Allow interventions by the litigant seeking clarifications, explanations or the answers to questions?
  - d. Ensure any other procedural information needs of the litigant are taken care of (such as avoiding self-incrimination or procedural errors, that they understand what evidence is admissible and how to conduct themselves, including appropriate questioning of witnesses)?

## **Vulnerable groups**

1. Are there adjusted procedures and facilities to meet the specific needs of the parties and cases before them (e.g., minors, victims of domestic, gender-based and/or sexual violence etc)?
  - a. If not, the following good practices should be considered:
    - i. Minors: adjustments including closed-door trials, free psychological and legal support, appointment of a curator, child friendly interrogation and waiting rooms, special interrogation procedures, limitations on pre-trial detention, video recording of interrogations, participation of social services, increased court diligence, etc.
    - ii. Victims, notably of domestic violence: adjustments including special protection, closed-door trials, measures to avoid visual contact with the accused, measures to avoid unnecessary questioning, free legal advice, emergency channels in court, informing the victim when the perpetrator is released, etc.
    - iii. Victims of human trafficking: adjustments including a special public fund for victims of human trafficking, special protection, video recording of testimony, anonymisation, psychological and legal assistance, etc.
2. Are judges and staff adequately trained to understand how to support various vulnerable

groups in society, including:

- a. Minors:
    - i. If not, consider the provision of specialist training for judges and prosecutors in child-friendly justice, educational matters and/or psychology.
  - b. Victims of violence and abuse, particularly gender-based and domestic violence:
    - i. If not, consider the provision of specialist training on domestic violence for judges and prosecutors, including in their initial curriculum, through mandatory or expected training prior to working on such cases.
  - c. Migrants, asylum seekers, refugees and people with disabilities:
    - i. If not, consider the provision of specialist training for judges, prosecutors, including in their initial curriculum, through mandatory or expected training prior to working on such cases.<sup>9</sup>
3. Are parties who have suffered, or are at risk of suffering violence or other abuse able to:
    - a. access support services before, during and after the legal process?
    - b. give evidence and participate in proceedings in an environment where they feel safe? This includes for example, being physically separated from the other party/ies or providing testimony online.
  4. Is there an “ecosystem” around the court including other relevant justice sector entities, ancillary support and referral networks?
  5. Is confidential information about vulnerable litigants adequately protected (such as names and address details being redacted from judgments/decisions)?

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<sup>9</sup> Most training is delivered through a combination of supranational bodies (e.g., European Union Agency for Asylum, European Judicial Training Network, Council of Europe’s HELP Programme, Academy of European Law) and national judicial training centers.