

EDAD

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ORIENTACIÓN
SEXUAL

ETNIAS

MIGRACIÓN
Y REFUGIO

POBREZA

GÉNERO

DISCAPACIDAD

MINORÍAS

PRIVACIÓN
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Brazilian Regulations

on Access to Justice for Vulnerable
People
2018



With the support of:



Brazilian Regulations on Access to Justice for Vulnerable People

(Update approved by the Plenary Assembly
of the XIX edition of the Ibero-American Judicial Summit,
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PRESENTATION

Within the framework of the Plenary Assembly of the XIX edition of the Ibero-American Judicial Summit, which took place from April 18 to 20, 2018 in San Francisco de Quito (Ecuador), an update of the One Hundred Rules of Brazil was approved- on access to justice for people in vulnerable conditions. This update affected 73 of their 100 rules. The update was carried out by the Follow-up Commission of the One Hundred Rules of Brasilia¹ and crystalized after an arduous but no less enthusiastic task, in a new version. The working methodology was guided by the safe compass of the idea of consensus, in the most poetic sense of the term [(Omne tulit punctum, qui miscuit utile dulci (Horace, *Ars poetica*, verse 343)], that is, we obtained a unanimous consensus integrating the sweet and the useful.

The purpose of this update was to fulfil the mandate emanating from the Ibero-American Judicial Summit- to adapt the Rules to the advances made by international regulations, to the new concepts and actions in the field of access to justice. The efforts of the Commission were directed towards the improvement and correction of certain aspects of a technical nature in a large number of Rules, and all of this with the priority purpose of making the Rules of Brasilia, not only a better normative text, but to also provide it with greater practicality and, in short, give it its own naturalness. Which is to say, to have it be the embryo of an international, programmatic and technical normative instrument of general scope for all recipient countries in the field of access to justice for people in a situation of vulnerability.

¹ Juan Martínez Moya, Magistrado, Vocal del Consejo General del Poder Judicial de España (Coordinador de la Comisión de Seguimiento); Ángela Russo de Cedeño, Vicepresidenta de la Corte Suprema de Justicia de Panamá; Dr. Miguel Alberto Piedecabras, Director General a cargo de la Secretaría de Asuntos Judiciales del Consejo General de la Magistratura de Argentina y exPresidente del Consejo de la Magistratura de Argentina; María Fernanda Castro Mendoza, Magistrada CSJ Honduras; María Amanda Castellón Tiffer, Magistrada del Tribunal de Apelaciones de Managua (Nicaragua). Participaron también en la actualización: Carmen María Escoto Fernández, ex vicepresidenta de la CSJ de Costa Rica y Ana Karina Peralta Velasquez, ex vocal del Consejo de la Judicatura de la República del Ecuador. La Secretaria ejecutiva de la Comisión está en la actualidad residiendo en el Consejo General del Poder Judicial del Reino de España, a cuyo cargo está la fiscal y letrada de dicho Consejo, Betlem Roig Mateo. Durante los trabajos de actualización recayó dicha Secretaria en Alejandra Monge Arias (Costa Rica).

In short, the Hundred Rules of Brasilia in its updated version advocate more than ever for a closer and more inclusive justice for the millions of people who belong to the Ibero-American community, and particularly for those people in a particularly vulnerable condition.

To conclude a desire already anticipated in the Minutes of the 2nd Preparatory Meeting of the Ibero-American Judicial Summit held on October 2-4, 2019 in Lima (Peru), The Commission, with the accompaniment of the EUROsocial+ Program of the European Union, is a proposal to carry out a strategy to consolidate the 100 Rules of Brasilia (in its 2018 version) to promote its consideration as a binding international text for all Judicial Powers and citizens in general. To this end, it is proposed that the One Hundred Rules of Brasilia constitute a reference and development document in the application of SDG 16 of the 2030 Agenda.

La Comisión de Seguimiento de las Cien Reglas de Brasilia



STATEMENT OF REASONS

Within the framework of the works carried out on occasion of its 14th edition, the Ibero-American Judicial Summit has considered it necessary to draft some Basic Regulations regarding access to justice for vulnerable people.

These expand on the principles included in the “Charter of Rights of the People before the Judiciary in the Ibero-American Judicial Space” (Cancun 2002), specifically those included in the section entitled “A justice system that protects the weakest” (sections 23 to 34).

All the main Ibero-American networks of civil servants and workers of the judicial system also took part in the preparatory work for these Regulations: the Ibero-American Association of Public Ministries, the Inter-American Association of Public Defense Ministries, the Ibero-American Federation of Ombudsmen and the Ibero-American Union of Lawyers’ Societies and Associations. Their contributions have greatly enriched the contents of this document.

The judicial system must be designed, and indeed is being designed, as an instrument for the effective defense of the rights of people in a vulnerable situation. It is of little use if the State formally recognises a right when its owner is unable to access the justice system effectively in order to exercise that right.

Though the difficulty of guaranteeing the efficacy of rights generally affects all scopes of public policy, this difficulty becomes even greater when dealing with people in a vulnerable situation, given that they encounter greater obstacles to exercising their rights. This is why it is important to carry out more focused, intense activities aimed at conquering, eliminating or



mitigating such limitations. Thus, the justice system itself can contribute significantly to the reduction of social inequalities, favouring social cohesion.

The present Regulations are not limited to establishing the basis for reflection on the problems that people in a vulnerable situation face when accessing justice: they also include recommendations for public bodies and for those who provide their services within the judicial system. They not only refer to the promotion of public policies that guarantee access to justice for these people, but also to the everyday work of all workers and operators of the judicial system and those who contribute to the operation of the system in one way or another.

The initial Chapter of this document defines its aim and then moves on to defining its beneficiaries and recipients. The following Chapter has a series of rules applicable to all the people in a vulnerable situation who must access or have accessed justice, as part of the process, for the defense of their rights. Subsequently it contains regulations that are applicable to any person in a vulnerable situation taking part in a judicial proceeding, be it as the party taking action or the party defending their right before an action, be it as a witness, a victim or in any other condition. The last Chapter includes a series of measures aimed at increasing and promoting the effectiveness of these Regulations, in order that they may contribute effectively to the improvement of the conditions of access to justice for people in a vulnerable situation.

The members of Ibero-American Judicial Summit are aware that the promotion of an effective improvement of access to justice demands a series of measures within the competency of the judicial power. Given the importance of this document for guaranteeing access to justice for people in a vulnerable situation, all public powers are hereby urged, within their respective scope of competency, to promote legislative reforms and to adopt measures that make effective the contents of these Regulations. Likewise, International Organisations and Cooperation Agencies are hereby actively urged to take into account these Regulations in the course of their activities, incorporating them in the different programmes and projects to modernize

the judicial system in which they take part.

As a result of the works carried out on occasion of the XIX Ibero-American Judicial Summit, the Brazilian Rules were updated. 73 out of 100 rules were modified in order to adapt them to current international regulations. A goal to which the improvement and correction of certain aspects have been added. All with the express purpose to make the Brazilian rules not simply a better normative text and more practical but ultimately to dispense with its own nature, that is, to be a normative, programmatic and technical instrument of general scope to all the target countries.



CHAPTER I: PRELIMINARY

Section 1. Aim

(1) These Regulations aim to guarantee the conditions of effective access to justice for people in a vulnerable situation, without discrimination, encompassing the group of policies, measures, assistance and support that allow these people to fully enjoy the Human Rights that are inherent to them in the services of the judicial system.

(2) It is recommended that public policies that guarantee access to justice for people in a vulnerable situation be drafted, approved, implemented and strengthened. The workers and operators of the justice system shall treat the people in a vulnerable situation according to their specific circumstances. It is also recommended that priority be given to actions aimed at facilitating access to justice for people who are exceptionally vulnerable, be it due to several concurrent causes or due to the severity of one single cause.

Section 2. Beneficiaries of the Regulations

1. Definition of people in vulnerable conditions

(3) A person or group of people are in vulnerable conditions when their capability to prevent, resist or overcome an impact that puts them at risk, is not developed or is limited by different circumstances to fully exercise their recognized rights in the judicial system.

In this context, people in vulnerable conditions are those who, due to their age, gender assigned at birth, sexual orientation and gender identity, physical or mental condition, or due to social, economic, ethnic and / or cultural circumstances, or related to their religious beliefs and / or practices, or the absence of these, find it



particularly difficult to fully exercise the rights recognized by the legal system before the courts.

(4) The following may constitute some causes of vulnerability,: age, disability, belonging to indigenous communities, other ethnic-cultural diversities, including people of African descent, as well as victimization, migration, refugee status and internal displacement, poverty, gender, sexual orientation and gender identity, and deprivation of liberty.

The specific determination of people in a vulnerable condition in each country will depend on their specific characteristics, or even on their level of social and economic development.

2. Age

(5) Person under eighteen years of age are considered children and adolescents, except if they have reached legal age before by virtue of the applicable national legislation.

Any child or adolescent must be subject to a special guardianship by the justice system bodies in line with their development.

The superior interests of minors shall prevail when they interact with the justice system.

(6) Aging can also constitute a cause of vulnerability if an elderly adult person finds it especially difficult to exercise their rights before the justice system, on the basis of their functional capacities. Or barriers resulting from the economic and social environment, to exercise their rights before the justice system, with full respect for their dignity.

3. Disability

(7) Disability is understood here as the situation that results from the interaction between people with long-term physical, psychosocial, intellectual or sensory disabilities, and any type of barriers in their environment that limit or prevent their full and effective participation in society, on equal terms with others.

For the purposes of these Rules, those persons who temporarily present such deficiencies, which limit or impede their access to justice on equal terms with others, are also in a situation of disability.

(8) Every attempt will be made to establish the necessary conditions to guarantee the accessibility of disabled persons to the justice system, including measures aimed at using all required judicial systems and having all resources that guarantee equal treatment, recognition as a person in the face of the law, respect for their autonomy, ability to act, security, mobility, comfort, understanding, privacy and communication-be it through any technological means that requires- addressing the digital and cultural gap.

The labor inclusion of people with disabilities will be promoted in the Judicial Powers.

4. - Belonging to indigenous communities

(9) People belonging to indigenous communities may be in a condition of vulnerability when they exercise their rights before the state justice system.

Conditions aimed at enabling indigenous people and communities to fully exercise said rights before the justice system, without any discrimination with regard to their indigenous origins, identity, or economic situation, shall be promoted.

The judicial powers will ensure that the treatment they receive by the state justice administration bodies is respectful towards their dignity, language and cultural traditions.



This is without prejudice of Regulation 48 regarding the indigenous peoples' own ways of solving conflicts, encouraging their harmonization with the state justice administration system.

It will be understood that there is discrimination against people of African descent or belonging to other ethnic or cultural diversities, when situations of exclusion, restriction or preference occur based on reasons of race, color, lineage or national, ethnic or cultural origin that nullify or impair recognition, enjoyment or exercise, under conditions of equality, of human rights and fundamental freedoms in the political, economic, social, cultural spheres or in any other sphere of public life.

5. Victimization

(10) To the effects of these regulations, a victim, in a broad sense, is any person or group of people who have suffered damage caused by an infringement of the legal system, including both physical or mental injury, emotional damage, moral suffering and economic damage.

(11) A victim is considered to be in a vulnerable condition who, as a result of the violation of the legal system, has a relevant limitation to prevent, avoid or mitigate the damages derived from said violation or from their contact with the justice system, or to face the risks of suffering a new victimization.

The vulnerability may come from personal characteristics or from the circumstances of the offense. Due to their double condition of vulnerability, the persons enunciated in Rule 3, second paragraph deserve special consideration.

(12) The adoption of measures aimed at mitigating the negative effects of the crime (primary victimization) shall be encouraged.

In addition, efforts shall be made to ensure that the damage suffered by the victim of the crime is not worsened as a result of their contact with the justice system (secondary victimization). Efforts shall be made to guarantee, throughout all the phases of the criminal proceedings, the protection of the physical and psychological integrity of the victims, especially in favor of those who are at the highest risk of intimidation, reprisal or reiterated, or repeated victimization (the same person being



a victim of more than one crime over a certain period of time), It may also be necessary to grant specific protection to victims who are going to give evidence in the trial. Special attention shall be paid to cases of family violence, as well as to cases where the person accused of having committed the crime is set free.

6. Migration and internal displacement

(13) The displacement of a person outside the state of their nationality can be a cause of vulnerability, especially in the case of those with irregular migratory status.

A migrating worker is defined here as a worker who is going to carry out, is carrying out or has carried out a paid activity in a state of which he is not a national. The immigrants status cannot be an obstacle in the access to justice for the defense of their rights.

Likewise, special protection will be granted to the beneficiaries of refugee status in accordance with the 1951 Refugee Convention, as well as to asylum seekers

(14) Those who have had to move internally without crossing an internationally recognized state border may also find themselves in a vulnerable condition.

These are people or groups of people who have been forced or obliged to escape or flee from their home or place of habitual residence, specifically as a result of or to avoid the effects of, armed conflict, situations of generalized violence, violations of human rights or natural catastrophes or catastrophes caused by humankind, without crossing an internationally recognised state border.

7. Poverty

(15) Poverty is a cause of social exclusion, in both economically, and on social and cultural levels. It is also a serious obstacle for access to justice, especially for those people who are in a vulnerable situation due to other additional reasons.

(16) Culture or legal literacy will be promoted among people in a situation of poverty, along with the conditions to improve their effective access to the justice system.

They may propose among others, measures aimed at the allocation of financial aid



to cover costs of travel, lodging and food. They will also aim to achieve an understanding of the object and scope of the judicial proceedings, as well as establishing a system of free legal aid.

8. Gender

(17) The discrimination suffered by women in several spheres is an obstacle for their access to justice, which is worsened in cases where other vulnerability factors are also present.

(18) Discrimination against women is understood as any distinction, exclusion or restriction based on gender, aimed at or resulting in undermining or cancelling the recognition, enjoyment or exercise by women, regardless of their marriage status, on the basis of the equality of man and woman. Or of the infringement of their human rights and fundamental freedoms in political, economic, social, cultural, civil or any other field

(19) Violence against women is understood as any action or conduct, on the basis of their gender, causing death, physical, sexual or psychological suffering, or damage to property. This includes threats of such acts, coercion or arbitrary deprivation of their liberty, both in the public and private spheres, by means of the use of physical or psychological violence.

The concept of violence against women shall include domestic violence, traditional practices harmful to women, including female genital mutilation and forced marriage, as well as any action or conduct that undermines the dignity of women.

The necessary measures will be promoted to eradicate discrimination against women in the access of justice for the protection of their rights and interests. Therefore achieving the effective equality of conditions.

Special attention shall be paid to cases of violence against women, establishing efficient mechanisms aimed at protecting their legal rights (and their property, home and family), their access to trials, procedure and judicial processes in an agile and speedy manner.

(20) Discriminatory actions or behaviors towards people on the basis of their sexual



orientation or identity, or for reasons related to gender, can also restrict access to justice.

9. - Belonging to a minority

(21) Belonging to a national, ethnic, religious or linguistic minority can be a cause for vulnerability. The dignity of people belonging to minorities should be respected when they come into contact with the justice system.

10. Confinement

(22) The deprivation of liberty, ordered by a competent public authority, can generate difficulties in fully exercising the rights of the detained person before the justice system, especially if any of the other causes of vulnerability listed in the previous sections are also present.

In complying with these measures, the judicial authority shall be responsible for ensuring the dignity of the person deprived of liberty and for their fundamental guarantees, in accordance with international instruments on human rights.

(23) To the effects of these Regulations, confinement is understood as that which has been ordered by a public authority, whether for reasons of crime investigation, a criminal sentence, mental illness or any other reason.



Section 3. Recipients: actors of the justice system

(24) The recipients of the content of these regulations are:

- a) Those responsible for designing, implementing and assessing public policy within the judicial system;
- b) Judges, Prosecutors, Public Defenders, Attorneys and other civil servants who work in the Justice Administration system in accordance with the internal legislation of each country;
- c) Lawyers and other Law professionals, as well as Societies and Associations of Lawyers;
- d) Employees of Ombudsmen bodies;
- e) Prison police officers and services.
- f) And more generally, public authorities with powers in the administration of justice, the operators of the judicial system and those who take part in any way in its operation.



CHAPTER II: EFFECTIVE ACCESS TO JUSTICE FOR THE DEFENSE OF RIGHTS

(25) The necessary conditions should be promoted so that the judicial custody of the rights recognized by law is effective, adopting the measures that best adapt to each condition of vulnerability.

Section 1. Legal culture

(26) Actions aimed at providing basic information on the rights of people in a vulnerable situation shall be promoted from the first contact with the authorities or with the Victim Assistance Offices. The same actions pertaining to providing information about the procedures and requirements to guarantee an effective access to justice for people in a vulnerable situation shall also be implemented.

(27) The participation of civil servants and operators of the justice system will be encouraged in the design, dissemination and training of a legal civil culture, and especially that of people who collaborate with the administration of justice in rural areas and in underprivileged areas of large cities.

Section 2. Legal assistance and public defense

1. Promotion of technical legal assistance to people in vulnerable conditions

(28) The relevance of technical legal advice for the effectiveness of the rights of people in a vulnerable situation is confirmed:

- As regards legal assistance, that is, legal consultation regarding any issue that may affect the legitimate rights or interests of people in a vulnerable situation, without unnecessary delays, even if a trial has not been initiated;



- As regards defense, to defend their rights in the proceedings before all jurisdictions and in all legal courts; and, where appropriate, conditions under which it can be obtained free of charge;
- And as regards the provision of legal assistance to the arrested.

(29) The convenience of promoting public policy aimed at guaranteeing technical-legal assistance to persons in vulnerable conditions for the defense of their rights in all jurisdictional orders is emphasized: either through the expansion of the functions of the Public Defender's Office, not only in the criminal order but also in other jurisdictional orders; or through the creation of legal technical assistance mechanisms, legal consultancies with the participation of universities, casas de justicia (justice centres), intervention of bar associations, all without prejudice to the revision of procedures and procedural requirements as a way to facilitate access to justice, as referred to in Section 4 of this Chapter.

2. Quality, specialized and free assistance

(30) Emphasis on the need to guarantee quality and specialized technical legal assistance. To this aim, instruments aimed at controlling the quality of the assistance provided shall be promoted.

(31) Actions aimed at guaranteeing free and confidential technical legal assistance provided by the Public Administrations to those people who are unable to meet the expenses with their own resources and conditions shall be promoted.

Minors whose mother is a victim of gender or domestic violence will have the right to free assistance and protective measures.

Section ^a. Right to an interpreter

(32) The free assistance of an interpreter or translator will be guaranteed, when the person who is to be questioned or is required to give a statement, even as a witness, or when it is necessary to personally make known a resolution or document, does not know, does not speak or does not understand the language



used in the respective judicial action.

This right will also be applicable to people with hearing or oral expression limitations.

Oral or sign language interpretations must be recorded by means of the audio-visual recording of the original statement and the interpretation, or, where appropriate, documented in writing.

Section 4. Review of procedural requirements and procedures as a means of facilitating access to justice

(33) The procedural regulations shall be reviewed to facilitate the access of people in a vulnerable situation, adopting any organization and legal management measures that are conducive to this aim.

1. Procedural measures

(34) Requirements for accessing the process and legitimacy

Measures shall be promoted for the simplification and dissemination of the requirements demanded by law in the practice of certain acts, in order to favor the access to justice of vulnerable people, and without prejudice to other participating bodies which may assist in the exercise of the rights of these people.

(35) Oral hearings

Oral hearings shall be promoted in order to improve the conditions under which legal actions are held, as contemplated in Chapter III of these Regulations, and in order to favor increased swiftness in the processing, reducing the effects of the delays in the legal decision regarding the experience of people in a vulnerable situation.

(36) Forms.

Promotion of easy-to-handle forms for the exercise of certain actions, establishing conditions so that they are accessible and free, guaranteeing their confidentiality and protecting the data of the users, especially in those cases in which legal



assistance is not required. This type of form may also be extended to the victim's next of kin, under the terms established in the case of situations that have caused particularly serious damage, or in cases where the user cannot carry out the procedures personally.

(37) Accepting evidence in advance of the trial

It is recommended that the procedures be adapted to allow advance evidence-taking for people in vulnerable conditions in order to avoid having to repeat statements, and to avoid the worsening of a disability or an illness, if applicable. To these effects, it may be necessary to make an audio-visual recording of the court proceedings in which the person in vulnerable conditions is taking part, so that it can be replayed in future judicial instances.

2. Organizational measures and judicial management

(38) Swift and priority

The necessary measures shall be adopted to avoid delays in processing each case, guaranteeing a prompt judicial resolution, as well as the swift execution of the resolution.

When the circumstances of the situation of vulnerability so require, priority shall be given to the attention, resolution and execution of the case by the bodies of the system of justice.

A visible marker will be placed on files, which will allow the identification of the case in question as one that affects a vulnerable person.

(39) Coordination.

Intra- and inter-institutional coordination mechanisms, both organic and functional, shall be established with the aim of managing the interdependencies of the acts of the different bodies and institutions, both public and private, which form part of or take part in the system of justice.

(40) Specialization.

Measures shall be adopted aimed at the specialization of professionals and civil servants of the judicial system and those who intervene in one way or another in its operation, for the attention of people in vulnerable conditions and, in particular, for victims in need of special protection and minors with disabilities. In instances in



which it is required, it is advisable to assign the cases to specialized bodies of the judicial system.

(41) Interdisciplinary action

Importance is given to the action of multidisciplinary teams, made up of professionals from different fields, as well as the development of protocols for joint action to improve the response of the judicial system to a vulnerable person's demands for justice.

(42) Proximity

The adoption of measures shall be promoted that encourage a bridging of distances between the justice system services and those groups of people which, due to circumstances related with their vulnerability, are in remote locations or have special communication difficulties.

Section 5. Alternative means of conflict-resolution

1. Alternative means and vulnerable people

(43) Alternative means of conflict-resolution shall be promoted in cases where it is appropriate, both before the start of the process and during the process itself. Alternative means of conflict-resolution shall be integrated into the service that public administrations have to offer to the justice users and especially, to people in vulnerable conditions.

Mediation, reconciliation, arbitration and other means that do not require the resolution of the conflict in a court can contribute to improving the conditions of access to justice for certain groups of vulnerable people, as well as to decongest the operation of the formal services of the justice system.

(44) In any case, before resorting to an alternative means of conflict resolution, the specific circumstances of each of the persons affected shall be taken into account, especially if they are in any of the situations of vulnerability contemplated in these Regulations. Comprehensive training and awareness of mediators, arbitrators and others who take part in conflict resolution will be promoted.



It is especially important to include training on human rights, gender, diversity and interculturality.

2. Dissemination and information

(45) The existence and features of these means of conflict resolution should be disseminated and communicated among all groups of people that may be potential users in cases where the law allows their use.

(46) Any person in a vulnerable condition who takes part in the resolution of a conflict by any of these means should be previously informed of their content, form and effects. Said information shall be provided in accordance with the provisions contained in Section 1 of Chapter III of these regulations.

For this purpose, the corresponding action protocols will be drawn up.

3. Participation of vulnerable people in Alternative Conflict Resolution

(47) Promotion should be carried out for the adoption of specific measures that allow the participation of people in a vulnerable situation in the mechanism chosen for the Alternative Conflict Resolution, such as the assistance of professionals, the participation of interpreters or the intervention of the parental authority for minors when necessary, or with the assistance, support or legal representation when the conditions requires it.

The Alternative Conflict Resolution activity should take place in an environment that is safe and appropriate for the circumstances of the persons taking part.

Section 6. System for the resolution of conflicts within indigenous communities

(48) Based on the international policies drafted on the subject, it is appropriate to



employ the correct justice procedures in the resolution of conflicts that have arisen within the context of indigenous communities, the Afro-descendant community and other ethnic and cultural diversities.

The harmonization of the state justice administration systems and the traditional means of administration of justice of the aforementioned communities, based on mutual respect and in accordance with international human rights standards, will be promoted.

(49) In addition, the remaining measures provided for within these regulations will apply in cases of conflict resolution outside indigenous communities, Afro-descendant community and other ethnic and cultural diversities, by the state justice administration system, where it is also appropriate to tackle the issues related to cultural and/or anthropological expertise and the right to express oneself in one's own language.



CHAPTER III: EXECUTION OF JUDICIAL PROCEEDINGS

(50) All efforts will be made to ensure that the dignity of the person in a vulnerable situation is respected in any intervention as part of a judicial proceeding, granting them specific treatment according to their specific circumstances.

Section 1. Procedural or jurisdictional information

(51) Conditions aimed at guaranteeing that people in a vulnerable situation be duly informed with regard to the relevant aspects of their intervention in the judicial proceedings will be promoted, in a manner adapted to the circumstances that determine their vulnerability.

1. Content of the information

(52) When a person in a vulnerable situation takes part in a judicial action, in any condition, they will be informed on the following issues:

- The nature of the judicial action in which they will be participating.
- Their role within that action.
- The type of support they may receive with reference to the specific action, as well as the information on the body or institution that can provide it.

(53) Whoever is a party to the process or may become one will be entitled to receive any relevant information for the protection of their interests. The competent bodies must adopt all pertinent measures to supply it. Said information should include at least:



- The type of support or assistance that they may receive within the framework of the judicial action
- The rights they may exercise during the process, including the possibility of exercising the action individually or collectively.
- The manner and conditions under which they can access free technical legal assistance or judicial advice in the cases in which this possibility is covered by existing law.
- The type of services or organizations which they can go to in order to receive support.

Persons with disabilities will be provided with information on judicial proceedings, in a timely manner and at no additional cost, in accessible formats and with the appropriate technologies for the different types of disabilities.

2. Provision of the information

(54) Information must be provided from the start of and during the entire process. From the first contact with the police authorities, in the case of criminal proceedings. Along with procedures to guarantee effective access to justice for people in vulnerable conditions.

3. Manner or means for the provision of information

(55) The information will be provided in accordance with the circumstances that determine the person's vulnerability and in such a way that guarantees that the recipient is aware of the information

The States shall guarantee the creation and development of information offices or other entities created for this purpose.

The use of information and communication technologies will be promoted in an accessible, understandable manner and adapted to the specific situation of vulnerability.



4. Specific provision regarding the victim

(56) It will be encouraged that victims receive information, from the first contact with the authorities and officials, without unnecessary delays, regarding the following elements of the jurisdictional process:

- a) Assistance and support measures available, whether medical, psychological or material, and the procedure for obtaining them. Included within the latter when appropriate, information on the possibilities of obtaining alternative accommodation.
- b) The right to file a complaint and, if applicable, the procedure for filing the complaint and the right to provide evidence to the authorities in charge of the investigation.
- c) Procedure to obtain advice and legal defense, and where appropriate, conditions in which this can be obtained free of charge.
- d) Possibility of requesting protection and precautionary measures and, if applicable, the procedure to do so.
- e) Compensation to which you may be entitled and, if applicable, the procedure for claiming it.
- f) Interpretation and translation services made available.
- g) Auxiliary aids and services for communication made available.
- h) Procedure by means of which the victim can exercise their rights in the event that they reside abroad.
- i) Resources that can be filed against the resolutions if considered contrary to their rights.
- j) Contact details of the authority in charge of processing the procedure and channels to communicate with it.

- k) Restorative justice services available in legally appropriate cases.
- l) Cases in which they can obtain reimbursement of legal expenses and, where appropriate, procedures to claim it.

This information will be updated at each stage of the procedure to guarantee the victim the possibility of exercising their rights.

(57) Whenever there is a risk to victim's life, psychophysical integrity and/or heritage, every attempt will be made to inform them of any judicial decisions that may affect their safety. Especially decisions related to the release of the accused or convicted person in cases of alleged intra-family violence.

Preventive mechanisms will be implemented in order to avoid re-victimization and protection and care systems provided for victims and witnesses.

Section 2. Understanding of judicial actions

(58) Every person in a vulnerable condition has the right to understand and be understood. All necessary measures will be adopted to reduce any difficulties in communication that affect the understanding of the judicial proceedings in which a person in a vulnerable situation is taking part, guaranteeing that they can understand its scope and significance.

1. Notices and summons

(59) Simple and easily understood terms and grammatical structures will be used in notices and summons, in line with the specific needs of the persons in a vulnerable situation referred to in these regulations. Likewise, intimidating expressions or elements will be avoided, without prejudicing occasions when it is necessary to use admonishing or threatening expressions.

Efforts will be made to ensure that the notification is accompanied by a document in an accessible format in respect of the condition of disability and in accordance with technological advances to aid appropriate and comprehensive communication with the recipient.



2. Contents of the court resolutions

(60) Simple terms and syntax will be used in court resolutions, without prejudice to their technical accuracy.

The use of inclusive language must be respected.

3. Understanding of oral hearings

(61) The necessary mechanisms will be implemented for the vulnerable person to understand the judgements, trial, hearings and other oral judicial actions in which they take part, in accordance with the contents of paragraph 3, Section 3 of this Chapter.

Section 3^a. Appearance at court

(62) It will be ensured that the appearance in the judicial acts and proceedings of a person in a vulnerable condition is carried out in an appropriate manner according to the circumstances of said condition.

1. Information regarding the appearance at court

(63) Prior to the judicial proceedings, the person in a vulnerable situation should be provided with information directly related to the form and content of the appearance. This can be whether describing the court and its participants, or aiming to familiarize the person in a vulnerable situation with the legal terms and concepts, as well as any other relevant details.

2. Assistance

(64) Prior Assistance will be provided by specialized personnel (professionals of Psychology, Social Work, interpreters, translators or any other professionals considered necessary) in order to confront the worries and fears related to the court hearing; at the service of people in vulnerable conditions.



(65) During the appearance

When the specific situation of vulnerability makes it advisable, the statement and other procedural acts will be carried out in the presence of a professional, whose function will be to guarantee the rights of the person in vulnerable conditions. It may also be convenient to have a person present at the hearing to provide emotional support for person in vulnerable conditions.

3. Conditions of the appearance

Place of the appearance

(66) It is important that the appearance takes place in a comfortable, accessible, safe and quiet setting.

(67) In order to mitigate or avoid emotional tension or anxiety, every effort will be made to avoid the victim coinciding, in the terms of Rule 10, with the person accused of the crime in the court premises, as well as their confrontation during judicial proceedings, ensuring the victim is protected visually, avoiding re-victimization.

Duration of the appearance

(68) Every effort will be made to limit the amount of time that the person in a vulnerable condition has to wait before the start of the judicial proceeding.

Judicial proceedings must start on time. However, to set the date and time of the judicial proceedings, the particular circumstances of the person in a vulnerable condition must be taken into consideration; among others: location and geographical conditions of their place of residence, distance from the courthouse, means of transportation and transfer schedules.

When justified by concurrent reasons, preference or precedence may be granted to the holding of the judicial hearing in which the person in a condition of vulnerability participates.



(69) It is advisable to avoid unnecessary appearances. Vulnerable people should only appear when it is strictly necessary in accordance with judicial regulations. Efforts will be made to schedule all appearances involving the same person on the same day.

(70) It is recommended that the possibility of presenting evidence in advance be examined, whenever possible in accordance with applicable Law

(71) On certain occasions, it may be possible to proceed with recorded audio-visual support of the proceedings in order to avoid repetition in successive judicial instances under the terms established in Rule 37.

Manner of appearance

(72) Efforts will be made to adapt the language used to the particular needs of the vulnerable person. For example, their age, degree of maturity, level of education, intellectual abilities, degree of disability and socio-cultural conditions. The questions formulated should be clear and simply structured.

(73) All those who participate in the judicial appearance should avoid judgement or criticism regarding the behavior of the person in a vulnerable condition.

(74) Whenever necessary, the vulnerable person will be protected from the consequences of having to testify in a public hearing.

The possibility may be raised that their participation in the judicial proceeding be carried out under specially adapted conditions whilst reaching the same objective. Even excluding their physical presence at the location of the trial or hearing, provided that this is compatible with the Law of that country. To this effect, it may be useful to use a video-conference or CCTV system.



4. Safety of victims in a vulnerable condition

(75) It is recommended to adopt the necessary measures to guarantee effective protection of the legal rights of people in conditions of vulnerability who appear in the judicial proceedings as victims or witnesses, as well as that of their belongings, home and family; in addition to guaranteeing that the victim be heard in those criminal proceedings in which their interests are at stake.

(76) Special attention will be paid to cases in which the person is subjected to the danger of reiterated or repeated victimization, such as victims threatened in cases of organised crime, minors who are victims of sexual abuse or mistreatment, and women who are victims of violence within their families or relationships, as well as victims of hate crimes.

5. Accessibility of disabled people

(77) Accessibility will be provided for disabled people when holding proceedings in which they have to participate; in particular, every effort will be made to overcome architectural, information, communication and attitudinal barriers, making it easier to access and to be present in the judicial premises.

6. Participation of children and adolescents in judicial proceedings

(78) In judicial proceedings where minors must take part, it is important to take into account their age and general development, as well as observing the following:

- The hearing shall be held in a friendly space, including the possibility that they can give evidence without being present on the premises through the use of communication technologies.
- The language used must be simple and easy to understand.
- Any unnecessary formalities must be avoided, such as the use of robes, the physical distance from the tribunal and other similar formalities.



7. Persons belonging to indigenous communities

(79) When holding judicial proceedings, the dignity, customs and cultural traditions of people belonging to indigenous peoples and communities, people of African descent and other ethnic and cultural diversities shall be respected, in accordance with the internal legislation of each country.

Section 4. Protection of privacy

1. Restriction of judicial proceedings

(80) There may be occasions when, out of respect towards the rights of the person in a vulnerable condition, necessary measures may be adopted for their protection. It may be advisable to consider making the oral and written judicial proceedings unavailable to the public, in such a way that only those involved may access their contents, as well as prevent the dissemination of any information that could facilitate the identification of people in a situation of vulnerability.

2. Image

(81) In cases where the dignity, emotional situation or safety of the person in a vulnerable situation may be affected, it may be advisable to prohibit the taking and disseminating of images, be they in a photographic or video format. Pertinent measures must be adopted for this.

(82) However it is forbidden to take and disseminate images related to children and adolescents, given that this decisively affects their personal development .

3. Personal data protection

(83) In cases of special vulnerability, all efforts will be made to avoid disclosure and publicity of personal data.

(84) The guaranteed protection of personal data contained in digital or other media that allows for automated processing.

CHAPTER IV: EFFECTIVENESS OF THE REGULATIONS

1. General principle of collaboration

(85) The efficacy of these Regulations is directly linked to the degree of collaboration between its recipients (persons and institutions), as defined in Section 3 of Chapter I.

The assignment of the bodies and entities called upon to collaborate depends of the specific circumstances of each country, and therefore the main promoters of public policies must be especially careful both in identifying them and obtaining their participation, and in maintaining their collaboration throughout the process.

(86) The implementation of a permanent instance where the different actors referred to in the previous section will be promoted, which may be established by sectors.

(87) It is important for the Judicial Power to collaborate with other State Powers in the improvement of access to justice for people in vulnerable conditions, through specific interinstitutional cooperation strategies.

(88) The participation of federal and central authorities, autonomic and regional government and state bodies in federal states will be promoted, given that, in the scope of their competencies, they are frequently closer to directly managing social protection for the most disadvantaged sectors of society.

(89) Every country will consider the convenience of promoting the participation of civil society bodies given their relevant role in social cohesion and their close relationship and involvement with the most disadvantaged sectors of society.



2. International cooperation

(90) The creation of spaces that enable the exchange of experiences related to these matters among different countries, will be promoted. They will analyze the causes of success or failure in each country and establish good practices. These spaces for participation can be sectorial.

These spaces may also welcome the participation of representatives of any permanent bodies that may be created in each of the States.

(91) International Organizations and Cooperation Agencies are called upon to:

- Continue providing their technical and financial assistance for strengthening and improving access to justice.
- Take into account the contents of these regulations in their activities, and to incorporate them across the different programmes and projects to modernize the judicial system in which they participate.
- Promote and collaborate in the development of the aforementioned spaces for participation.

3. Research and studies

(92) Research and studies on this subject will be promoted, in collaboration with academic and university institutions.

4. Awareness and professional training

(93) Activities will be implemented that promote an organizational culture geared towards providing adequate assistance to vulnerable people on the basis of the contents of these regulations, attending to the needs of each group of beneficiaries.



(94) Initiatives will be adopted with the aim of supplying adequate training to all those within the judicial system who, due to their intervention in the process, are in contact with people in a vulnerable condition.

It is considered necessary to integrate the content of these regulations into the different training and update programs aimed at those working in the judicial system. In order to achieve this, permanent training courses will be carried out through the Judicial Schools of different countries.

5. New technologies

(95) Every effort will be made to make the most of the possibilities offered by technical progress in order to improve the conditions of access to justice for vulnerable people.

6. Sectorial good practices guides

(96) Guides will be drafted, detailing best practices for each of the vulnerability sectors, expanding on the contents of these regulations and adapting them to the specific circumstances of each group.

(97) In addition, a catalogue of international standards will be drafted periodically, in accessible physical and digital formats, in reference to each of the sectors or groups mentioned above.

7. Dissemination

(98) The dissemination of these regulations will be distributed among the different recipients as defined in Section 3 of Chapter I.

(99) Media activities will be promoted in order to contribute to encouraging the right approach and attitudes with regard to the contents of these regulations.



8. Monitoring committee

(100) A Monitoring Committee will be formed with the following aims:

- Draft a report regarding the application of these regulations after each summit meeting.
- Propose an Activities Framework Plan, in order to guarantee the monitoring of the implementation of these regulations in each country.
- Via the corresponding bodies of the summit, propose to the international, hemispherical and regional bodies, as well as to the Summits of Heads of State and Government of Ibero-America, the definition, adoption and strengthening of public policies that promote the improvement of the conditions of access to justice for vulnerable people.
- Propose modifications and updates to the content of these regulations.
- Make a call for good/better practice in the sphere of the Ibero-American legal community.
- Channel training and dissemination initiatives on the rules within the scope of the Ibero-American legal community.

The committee will be made up of five members appointed by the Ibero-American Judicial Summit. Other representatives of the other Ibero-American Networks of the judicial system that assume these regulations may form part of this committee. However the committee will have a maximum of nine members.

Consortio liderado por:

