1. *Does your country have laws, policies or guidelines on access to justice, at any level of government, which ensure persons with disabilities, particularly women and children with disabilities:*

*a. to participate in judicial and administrative proceedings on an equal basis with others in their role as witness, juror, complainant, defendant or other, including through the provision of procedural and age-appropriate accommodations (please identify and share the text of those provisions);*

*b. to have individual legal standing in all administrative and judicial procedures, including the right to be heard as part of their right to fair trial;*

*c. to have access to effective remedies that are appropriately proportional to the right(s) infringed and which are tailored to their specific situation; and*

*d. to have effective access to justice in the context of disasters, migration and asylum-seeking, conflict and post-conflict situations and transitional justice, and formal or informal systems of customary, indigenous and community justice, among others.*

In response to the first question it should be noted that Armenian legislation does not have many special regulations on access to justice namely for persons with disabilities, particularly women and children with disabilities. All in all, existing special regulations ensuring women’s access to justice are missing. Only some regulations on children and on persons with disabilities exist. Due to the existing gaps in the current national legislation access to justice for persons with disabilities is hindered. Below please find available norms of various legal acts regulating the named issues and analysis about the shortcomings.

The Criminal Procedure Code of the Republic of Armenia, Article 8 entitled ‘Equality of All Before the Law’ states: ‘All human beings are equal before the law and shall enjoy equal protection of the law, without any discrimination. Discrimination of the rights, freedoms and responsibilities on the grounds of sex, race, colour, ethnic or social origin, genetic traits, language or religion, mentality, political and other views, national minorities, disability, age economic, social, personal and other circumstances is prohibited’.

Next, according to the Civil Procedure Code of the Republic of Armenia **A**rticle 5 entitled ‘Equality of All Before the Law’ justice in civil cases is exercised based on the principle of equality of citizens and legal persons before the law and the court.

Existing domestic laws state special regulations ensuring children’s participation in judicial and administrative proceedings, which are well applicable to children with disabilities as well. According to the Criminal Procedure Code of the Republic of Armenia the rights of an underage child is presented by his/her representative. The Criminal Procedure Code of the Republic of Armenia Article 59, part 4 states that the rights of victims, who are under the age of majority or a civil judgment on declaring him or her as having no active legal capacity have entered into force, are executed by their legal representatives in the courts according to the provisions of the named Code. Under Article 6 part 6 of the named Code, which states the rights and obligations of civil plaintiff, the rights of the minors or legally incapable civil plaintiffs are exercised by their legal representative according to the provisions of the named Code. Furthermore, Article 63 of the same Code encompasses the rights and obligations of the suspect, in particular, according to part 7 of the Article the rights of the minors or legally incapable suspects are exercised by their legal representative according to the provisions of the named Code. Next, Article 69 entitled ‘Obligatory Participation of Defense Attorney’, part 1 envisages the participation of the defense attorney in the proceedings of the criminal case is obligatory, in line with other listed cases, in one where it is difficult for suspect or accused to exercise their right to defense as a result of being deaf-mute, blind, deaf, other essential violations of the functions of speech, hearing, sight, because of lengthy severe illness, and also idiocy, obvious mental underdevelopment, other physical or mental defects.[[1]](#footnote-1)

According to Article 205.1 of the Criminal Procedure Code of the RA, in general, interrogation should not last more than 4 hours without interruption., which specifies that interrogation of minors or persons with disabilities should not last more than 2 hours without a termination. Further, part 2 of the named Article states that interrogation of a person should be continued after at least one-hour break. During the entire day the whole duration of the interrogation should be no longer than 8 hours and if the interrogated person is a person with disabilities or a minor this duration should not last longer than 6 hours.

Article 207 of the Criminal Procedure Code of the RA contains provisions on interrogation a minor victim or witness, which state as follows:

1. Irrespective of their age minor witness or victim will be interrogated, if their statements may have a contribution on the case.
2. During the interrogation of a minor until the age of 16 a teacher should be present. Legal representative of the minor may also be present during the interrogation.

Pursuant to Article 341 of the Criminal Procedure Code of the RA, entitled ‘Interrogation of minor witness’, interrogation of a minor witness, if it is necessary for complete, comprehensive and objective examination of the case, can be conducted on the parties’ petition or by court initiative, in the absence of the defendant. After return to the courtroom, the testimonies of the minor witness are publicised for the defendant; the latter is given an opportunity to ask questions to the witness and to testify on the data provided by the witness. Further, a witness aged under 16 must leave or be removed from the courtroom after the interrogation, except those cases when the court on a party’s appeal or by its own initiative finds it necessary that the witness should be present.

According to Article 15 of the Criminal Procedure Code of the RA criminal proceedings shall be conducted in the Armenian. Everyone has the right to communicate, in the course of criminal proceedings, in the language s/he masters, except the body conducting the criminal proceedings. Upon decision of the body conducting the criminal proceeding, the persons who participating in criminal proceedings and lack sufficient command of the language of criminal proceedings, shall be provided possibilities free of charge to exercise, with the help of an interpreter, all rights belonging to them under the provisions of this Code. A person, who lack sufficient command of the language of criminal proceedings, shall receive a verified copy of those documents, which, in accordance with law, should be delivered to them in their native language. In this context the Criminal Procedure Code of the RA defines an interpreter, in line with other persons that bear different skills, is considered a person, who understands the signs of the deaf and dump persons and is capable to communicate with the deaf though signs.

Pursuant to Article 208 of the named Code, entitled ‘Interrogation of deaf, mute, blind or other severely ill person as a witness’, the interrogation of a deaf witness is conducted with participation of a sign language interpreter, whose participation is recorded in the protocol. In case of mental disease of the witness or other severe illness, the interrogation is conducted by permission and in the presence of a doctor if the witness suffers mental disease or other severe illness. Next, according to the Article 212 part 6 of the Code interrogation of the deaf accused is conducted with participation of a sign language interpreter.

Criminal Procedure Code of the RA envisages a special chapter on legal peculiarities of proceedings on the cases concerning minors, which comprises 5 articles explicitly regulating the proceedings, as follows:

Article 439 Procedure of cases concerning minors,

Article 440 Circumstances liable to verification in cases concerning minors,

Article 441 Participation of the legal representative of the minor in the investigation of the case,

Article 442 Custody of a minor as a means of prevention,

Article 443 Exemption of the minor from punishment by applying to him disciplinary enforcement measures.

Article 43 of the Civil Procedure Code of the RA states the rights and legal interests of the minors, incapable or partially incapable persons in court are defended by their parents (adopters), guardians or tutors, who submit documents certifying their status to the court.

The Armenian legislation does not provide effective realisation of the rights of persons with mental disability to access to justice, liberty and security. The major problem in this regard has been deprivation of liberty of persons with mental disability and absence of equality of arms in front of the court while hearing the case of limiting person’s legal capacity. According to the Article 171 the Civil Procedure Code of the RA, the person whose legal capacity limitation question is being heard in the court can be absent from the hearings due to his/her ‘health condition’. This formulation has been arbitrarily interpreted and many times resulted in abusing the rights of persons with disabilities, depriving them of an opportunity to stand in front of the court, to have equality of arms, etc. At the same time, according to the Article 173 of the same Code only the guardian, family member of or the mental house administration can apply to review that decision of the court.

Based on the CRPD standards and ECHR case law in the field of protection of legal capacity. the HRD applied to the Constitutional Court to question the constitutionality of the abovementioned regulations, underlining that those violate the right to access to justice, principles of equality of arms and adversarial principle of the trial. The Court in its decision no. 1197 (ՍԴՈ-1197) stated that the regulations limiting the access of the person to the trial, where his legal capacity is decided and the access to appeal the decision on legal capacity should be revisited though amending the law. After the Constitutional Court’s decision, the Ministry of Justice undertook efforts to revise the Civil Procedure Code, preparing a draft law, nevertheless leaving the issue of limiting person’s legal capacity. Namely, according to the Civil Procedure Code of the RA a person can be totally deprived of his legal capacity if due to mental disability cannot realize and control his/her actions. Simultaneously, there are also regulations on limiting a person’s legal capacity in case of addiction to drugs, alcohol or gambling. Thus, for a person with mental disability there is no proportionate limitation of his/her legal capacity taking into account gravity of the health condition and other abilities

The Administrative Procedure Code of the RA encompass general provisions on the rights of persons with disabilities to access to justice. A deaf or dumb person shall receive a verified copy of the procedural documents, shall have a capability to exercise all the rights and obligations defined in the Code by means of sign interpreter in accordance to the provisions of the named Code. Article 35 of the Code sets specific provisions on the rights of minor witnesses, inter alia, any witness under the age of 16 may be interviewed only in exceptional cases whom his/her procedural rights are explained and the court supervises the whole process of interviewing to avoid dismissing and other deprived questions. Simultaneously, when a person is interview who is under the age of 16 a child psychologist or teacher may present.

*2. Do you have examples from your country on:*

*a. how procedural and age-appropriate accommodations are provided and applied, including protocols or other guidelines;*

*b. training programmes on the right of access to justice for persons with disabilities for judges, lawyers, prosecutors, police, social workers, language and sign language interpreters, legal aid centres, other judicial and administrative bodies intervening in judicial or quasi-judicial instances;*

To our knowledge such training programmes are not part of the curricula for legal professionals, however some NGO’s and international organisations occasionally may provide such trainings in some cases.

3. *Does your country have laws, policies and strategies to ensure the participation of persons with disabilities on an equal basis with others in the judiciary or other judicial or quasi-judicial instances, including in their role as judges, witnesses, jurors, lawyers or any other active party to judicial or quasi-judicial procedures?*

Despite the programmes implemented by state aimed at promoting the employment of persons with disabilities the unemployment rate remains high for people with disabilities in Armenia. As of December 2016, the number of persons with disabilities registered in the territorial centres of the State Employment Agency amounted to 2926 persons[[2]](#footnote-2).

In order to eliminate disability-based discrimination in the sphere of labour affairs the Government introduced quota system as provided by the RA Law on Employment (Article 20). According to the Law the quota for public and private organisations would come into force gradually (year by year) depending on the number of employees in the organization. However, simultaneous to quota requirement, a mechanism of reimbursing for not complying with quota requirement is set in the mentioned Law, which has the potential risk for the organizations that can afford paying the required fines to avoid hiring persons with disabilities.

1. Official translation http://www.parliament.am/law\_docs/010998HO248eng.pdf?lang=eng [↑](#footnote-ref-1)
2. <http://armstat.am/file/article/sv_12_16a_141.pdf> [↑](#footnote-ref-2)