



OPSIDIANET

OFFENDERS WITH PSYCHO-SOCIAL AND INTELLECTUAL DISABILITIES
IDENTIFICATION, ASSESSMENT OF NEEDS AND EQUAL TREATMENT

NEWSLETTER

DECEMBER 2019



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**Offenders with Psycho-Social and Intellectual Disabilities
Assessing the Needs and Ensuring Equal Treatment**



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Safeguarding the Rights of Vulnerable Offenders

EU criminal law provides suspects and accused with a set of procedural rights to ensure that their basic rights are protected sufficiently. In particular, the legislative measures provide suspects and accused with the right to access to a lawyer and to communicate upon arrest ([Directive 2013/48/EU](#)), the right to be presumed innocent until proved guilty according to law, to remain silent and not to incriminate oneself ([Directive 2016/343/EU](#)) and the right to legal aid ([Directive 2016/1919/EU](#)).

A key prerequisite to enable suspects and accused to effectively benefit from all these safeguards is the degree, to which these persons are aware of and adequately understand these rights and the procedure for their exercise. This is particularly relevant for vulnerable groups of individuals, such as the persons with psycho-social or intellectual disabilities. To address their vulnerable situation in criminal proceedings, in 2013 the EC adopted a special Recommendation on procedural safeguards for vulnerable persons suspected or accused in criminal proceedings. The aim of this Recommendation is to encourage Member States to strengthen the procedural rights of all suspects or accused persons who are not able to understand and to effectively participate in criminal proceedings due to age, their mental or physical condition or disabilities.

In many EU Member States, the vulnerable situation of persons with psycho-social and intellectual disabilities is not properly assessed and taken into account when such persons are suspected or accused of committing a crime. This is often due to the lack of knowledge on the part of law enforcement and judicial authorities as to how to identify the vulnerabilities of such persons, what are the most appropriate ways to communicate with them and how to provide them with adequate opportunities to exercise their rights.

The failure to identify, at the very beginning of the proceedings, the specific vulnerabilities of persons with psycho-social and intellectual disabilities, and to communicate to them, in an understandable way, the information about the safeguards they can benefit from, might seriously harm their rights.

OPSIDIANET Project

Against this background, a consortium of research institutes experienced in the field of prison reform and inmates' rights from four Member States ([Center for the Study of Democracy](#) – Bulgaria; [The Center for European Constitutional Law](#) - Greece; [Comunità Papa Giovanni XXIII](#) - Italy; and [Droit au Droit](#) (DAD) – Belgium) have launched this project, with the aim to contribute to the effective and coherent application of EU criminal law in the area of the rights of suspects and accused with psycho-social or intellectual disabilities.

Specific objectives of the project will consist in:

- identifying gaps in national legislations and practices that prevent suspects and accused with psycho-social or intellectual disabilities to effectively benefit from the full scope of their rights.
- developing tools to enable judicial and law enforcement authorities properly identify and safeguard the rights such persons.
- delivering a series of trainings to facilitate and promote the use of these tools in criminal proceedings.

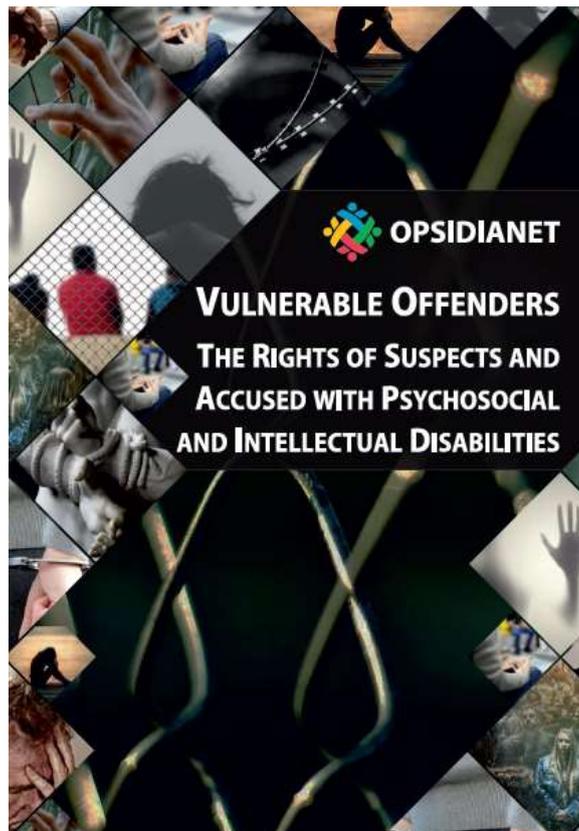
Check the **OPSIDIANET's website** (<https://www.opsidianet.eu/>) and its [Facebook page](#) to find all the information about the project in one place, stay updated on new developments, download publications in several languages or get in contact with the project team.



Vulnerable Offenders: The Rights of Suspects and Accused with Psychosocial and Intellectual Disabilities

People with intellectual and/or psychosocial disabilities comprise a disproportionate number of the people who are arrested, who come before the courts and who are deprived from liberty. The reasons for this are complex, but are generally attributed to clinical risk factors, such as co-occurring substance use problems and treatment non-compliance, as well as social and systemic factors, such as improperly implemented deinstitutionalisation policies, homelessness and poverty, community disorganisation, poorly funded and fragmented community-based mental health and social services, hospital emergency room bed pressures, overly restrictive civil commitment criteria, intolerance of social disorder, and criminal law reforms.

This report strives to bring together strands of scientific research from various fields, in order to shed some light on people with intellectual and psychosocial disabilities and the challenges they face in their interaction with the police and judicial authorities during criminal proceedings.



[Download full text \(Adobe PDF, 1.43 MB, in English\)](#)

[Download full text \(Adobe PDF, 2.05 MB, in Bulgarian\)](#)

[Download full text \(Adobe PDF, 1.64 MB, in French\)](#)

[Download full text \(Adobe PDF, 2.94 MB, in Greek\)](#)

[Download full text \(Adobe PDF, 1.47 MB, in Italian\)](#)

Recommended Reading

Exploring the autistic and police perspectives of the custody process through a participative walkthrough

Research in Developmental Disabilities, Volume 97, February 2020, 103545

Research suggests that autistic individuals may be more likely to come into contact with police and have more negative experiences in police custody. However, limited information about the difficulties they experience during the custody process is available. This study explores the experiences of autistic individuals and officers during a walkthrough of the custody process to identify specific difficulties in these encounters and what support is needed to overcome these.

[Read the full study here](#)

After each violent outburst, family and police couldn't find lasting help for a mentally ill Iowa man. Now he's charged with murder

Philip Joens, Des Moines Register, 13 December 2019

[Read the full story here](#)

Learning disabilities: supporting people in the criminal justice system

17 June, 2019, Nursing Times

Health inequity is a major problem in the criminal justice system for people with learning disabilities. This article explores the issues involved and discusses how to redress this.

[Read the full story here](#)

Justice, mercy and a long road to recovery: An in-depth look at criminals with mental illness in Singapore

By Lydia Lam, Channel News Asia, 15 June 2019

Accused people with mental illness are given special treatment in Singapore's legal system, but how exactly does the court decide the extent of the role a mental condition plays, and what happens to the accused person when he goes into prison and thereafter?

[Read the full story here](#)

Intellectual disabilities and offending behaviour: the awareness and concerns of the police, district attorneys and judges

Erik Søndena, Terje Olsen, Patrick Stefan Kermit, Nina Christine Dahl, Robert Envik, Journal of Intellectual Disabilities and Offending Behaviour, Emerald Publishing Limited, 30 May 2019

The purpose of this paper is to examine the awareness of intellectual disabilities (ID) amongst professionals in the criminal justice system (CJS) and their knowledge of those persons, either as victims, witnesses, suspects, accused or defendants.

[Read the full paper here](#)

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