



OPSIDIANET

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

NEWSLETTER

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OPSIDIANET



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



September 2020

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:

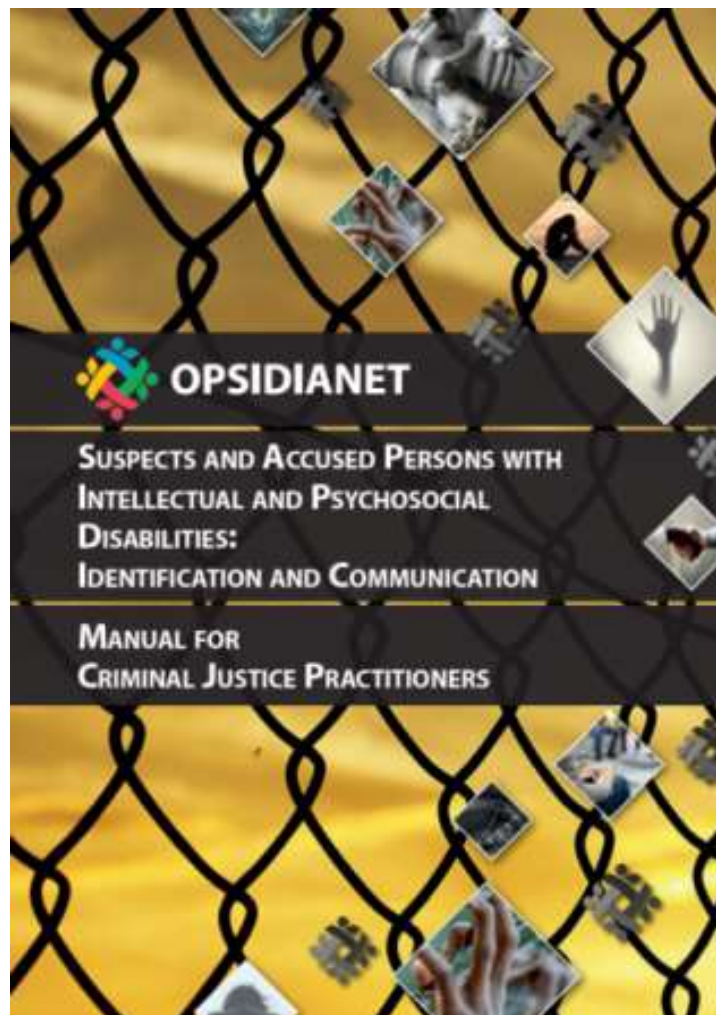
- identifying gaps in national legislations and practices that prevent suspects and accused with psycho-social or intellectual disabilities to effectively benefit from the full scope of their rights.
- developing tools to enable judicial and law enforcement authorities properly identify and safeguard 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.

Suspects and Accused Persons with Intellectual and Psychosocial Disabilities: Identification and Communication

Many suspects and accused persons have intellectual or psychosocial impairments that, if not identified on time, may affect their ability to effectively and fairly participate in the criminal proceedings. Unlike age and physical illness, which are easily recognised, intellectual and psychosocial disabilities are not always visible and may remain unnoticed or misinterpreted. While some people may inform the criminal justice authorities of their disability, others may not be aware of their condition or try to hide it to avoid stigmatisation and intimidation.

This manual is designed to provide criminal justice practitioners with practical guidelines on how to identify and communicate with suspects and accused persons with intellectual and psychosocial impairments considering their vulnerable situation and respecting their rights.



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Recommended Reading



What is Mental Health Court?

On behalf of Mike G Law posted in Mental Health & Substance Abuse Issues, September 2020

Mental health courts are a type of specialty court that exist within the criminal justice system. They have been developing steadily over the last few decades. Their purpose is to help individuals with mental health issues navigate the criminal justice system. In the State of Florida, this special court docket and its problem-solving approach have helped thousands of state residents. A mental health court can focus on addressing issues related to mental health and criminal charges.

[Read the full study here](#)

Mental health and the criminal justice system in France: a narrative review

Thomas Foveta, Florence Thibaut, Anne Parsons, Hans-Joachim Salize, Pierre Thomas, Camille Lancelevée, Forensic Science International: Mind and Law 1 (2020) 100028

The treatment of people diagnosed with mental disorders who committed crimes differ greatly in countries around the world because of the long histories of criminal justice and psychiatry specific to each country. As a result, it is often difficult to grasp the specificities of each system. The main objective of this paper is to provide a narrative review of the interactions between the French mental health and judicial systems. Subsequently, we will discuss how the concept of forensic psychiatry does not yet exist in France and how it can be applied.

[Read the full paper here](#)

Forensic mental health in Europe: some key figures

Tomlin, J., Lega, I., Braun, P. et al., Soc Psychiatry Psychiatr Epidemiol (2020)

The data presented in this study represent the most recent overview of key epidemiological data in forensic services across seventeen EU states. However, systematically collected epidemiological data of good quality remain elusive in forensic psychiatry. States need to develop common definitions and recording practices and contribute to a publicly available database of such epidemiological indicators.

[Read the full study here](#)

Exploring Needs and Quality of Life of Forensic Psychiatric Inpatients in the Reformed Italian System, Implications for Care and Safety

Ellen Vorstenbosch and Luca Castelletti, Front. Psychiatry, 3 April 2020

The Italian forensic psychiatric system underwent drastic reforms. The newly developed facilities are inspired by psychiatric community services, embracing a recovery-oriented approach. Needs and quality of life are broader concepts that consider the more rehabilitative and humanitarian aspects of treatment.

[Read the full study here](#)

Transition from Institutional Care to Community-Based Services in 27 EU Member States: Final report.

Research report for the European Expert Group on Transition from Institutional to Community-based Care

Šiška, J. and Beadle-Brown, J. (2020)

This Report offers a broad picture on situations, solutions and trends in deinstitutionalisation and community-living in the EU for persons with disabilities, with mental health problems, experiencing homelessness, children (including children with disabilities and unaccompanied or separated migrant children), and older adults in 27 EU countries.

[Read the full report here](#)

How mental health care should change as a consequence of the COVID-19 pandemic

Carmen Moreno, PhD; Prof Til Wykes, PhD; Prof Silvana Galderisi, MD; Prof Merete Nordentoft, DrMedSc; Nicolas Crossley, PhD; Nev Jones, PhD et al., *The Lancet*, Volume 7, Issue 9, p.813-824, September 2020

The unpredictability and uncertainty of the COVID-19 pandemic; the associated lockdowns, physical distancing, and other containment strategies; and the resulting economic breakdown could increase the risk of mental health problems and exacerbate health inequalities. Preliminary findings suggest adverse mental health effects in previously healthy people and especially in people with pre-existing mental health disorders.

[Read the full paper here](#)

European violence risk and mental disorders (EU-VIORMED): a multi-centre prospective cohort study protocol

de Girolamo, G., Carrà, G., Fangerau, H. et al., *BMC Psychiatry* 19, 410 (2019)

The link between schizophrenia spectrum disorders (SSD) and violence is a core issue for most forensic psychiatric services. However, the drivers of violence in this population remain unclear, and, to date tools to predict violence risk have a range of limitations. Perhaps because of this uncertainty about the nature of violence risk, treatment programmes and care pathways for mentally disordered offenders vary substantially across the European Union, and differences in legal and policy frameworks are highly relevant.

[Read the full study here](#)

The Revival of Francophone Research on Justice and Mental Health

Camille Lancelevée, Caroline Protais, Tristan Renard et Sébastien Saetta, *Champs Pénal / Penal Field* 18 / 2019

[Read the full paper here](#)

Grains de folie dans l'espace public

Clara Van Reeth, *Alter Échos* n° 479, 17-12-2019

Les manifestations de souffrance mentale et de troubles psychiatriques en rue sont en augmentation. Le nombre de procédures d'admission forcée en psychiatrie a doublé entre 2010 et 2018 dans la zone de police Bruxelles Capitale-Ixelles. Cette situation découle d'une précarité en augmentation et de troubles mentaux croissants dans toute la population. La prise en charge, quant à elle, serait saturée....

[Read the full paper here](#)

News

New police rule: agitated prisoners may not be locked up

Brussels Times, 23 September 2020

Emergency doctors have reacted critically to a new rule introduced by the federal police which says that prisoners in a state of agitation may no longer be locked up in a police cell, but instead taken to the emergency room of a hospital to be examined by a doctor. The new rule comes after the release of video evidence of the heavy-handed police treatment of Slovak national Jozef Chovanec in 2018.

[Read more](#)

Should police be first to respond in a mental-health crisis?

By Robin Levinson-King, *BBC News*, 29 July 2020

A series of deaths has shone a spotlight on how police respond during a mental-health crisis. Is there a better way?

[Read more](#)

Judges given first formal guidance on how to sentence criminals with mental illness

Lizzie Dearden, *Independent*, 22 July 2020

Judges are to be given formal guidance on how to sentence people with mental health issues for the first time in England and Wales. The Sentencing Council said courts were "seeing increasing numbers of offenders with mental disorders" and had so far relied on interpreting previous cases. The new guideline will be used by judges and magistrates from 1 October for adults with conditions including autism, depression, schizophrenia and dementia.

[Read more](#)

4 ways mental health professionals are better trained than police to de-escalate a crisis without violence

Julia Naftulin, Insider, 14 July 2020

Police officers are the people residents typically call to dangerous situations. But data show that when police respond to a mental health crisis, there is a high risk of violence and death. That's why some people have called to defund the police and reallocate resources to professionals who are trained to de-escalate these situations. Insider asked three professionals about their training, and how they can (and do) work with police.

[Read more](#)

Coronavirus: why the EU must protect people with mental ill-health

By Claudia Marinetti (Director of Mental Health Europe), Euractiv, 9 April 2020

Europe is going through one of the gravest crises in recent history. COVID-19 magnifies the vulnerability of our health, the economy and society. The pandemic also illustrates how disproportionate is its impact on populations in vulnerable situations, including people with mental ill-health.

[Read more](#)

Albania 'Held Mentally Ill Man in Prison Illegally'

Gjergj Erebara, Balkan Insight, 21 January 2020

The European Court of Human Rights awarded 15,000 euros in compensation to an Albanian held in a prison hospital since 2008 after a court order for compulsory treatment for mental illness.

[Read more](#)

Why are there so few prisoners in the Netherlands?

Senay Boztas, The Guardian, 12 december 2019

The Dutch justice system is cutting jail populations by offering specialist rehabilitation to people with mental illnesses.

[Read more](#)

Détenus atteints de troubles mentaux en France: constat "accablant" de la contrôleur des prisons

AFP, 22 novembre 2019

La contrôleur des prisons dresse un constat "accablant" de la prise en charge des détenus atteints de troubles mentaux dans un avis publié vendredi, soulignant que la crise de la psychiatrie en France est particulièrement sensible en prison.

[Read more](#)

Brussels: Innovative Mental Health Support. Mobile Unit Helps Keep People Out of the Hospital

Human Rights Watch, 10 October 2019

A mobile team in Brussels, Belgium that supports people with psychosocial disabilities, or mental health conditions, in their own homes offers an innovative rights-based alternative to residential psychiatric care, Human Rights Watch said today in a new web feature.

[Read more](#)

Editor-in-Chief: [Nicola Giovannini](#)
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