



# The Brasilia Rules are a key instrument for guaranteeing access to justice and contributing to social cohesion in the region

A good justice system must generate in its users the conviction that their matters will be dealt with quickly, impartially and in accordance with the law. And that they will also be able to access justice and see their rights protected on an equal footing. Despite the notable advances in this area in the region, there is still a need to improve and guarantee access to justice for vulnerable people, in order to reinforce social cohesion.



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REGIONAL

Area:  
DEMOCRATIC GOVERNANCE  
POLICIES

Line of action:  
ACCESS TO JUSTICE



Access to justice is a basic principle of the Rule of Law contained in various international instruments. This is why the 100 Brasilia Rules on Access to Justice for Vulnerable People, recommend prioritising all the actions that tend to facilitate access to justice for people who are in this situation.

Since the beginning of the European Union's EUROsociAL Programme, it has supported the countries in the region and the regional networks, not only in initially defining the Rules, but also in revising them and in their dissemination and implementation at a national level in the Latin American countries. In this new phase, we are working closely with the three most important regional networks in the field of Justice: Ibero-American Judicial Summit, the Inter-American Association of Public Defenders (AIDEF) and the Ibero-American Association of Public Prosecutor's Office (AIAMP). In the following countries: Argentina, Bolivia, Brazil, Colombia, Costa Rica, Chile, Honduras, Ecuador, Panama, Uruguay and Peru. All this has contributed to improving access to justice and guaranteeing the protection of the rights of persons in vulnerable conditions.

The 100 Brasilia Rules were approved at the 2008 Ibero-American Judicial Summit with the support of EUROsociAL I. This action line was revived in the programme's second phase, focusing on the effective application of the Brasilia Rules. In 2018, the Ibero-American Judicial Summit, 12 years after their initial approval, validated a new version of the Rules to define new legal concepts; to adapt them to international conventions, especially the International Convention on the Rights of People with Disabilities; to expand the rights and beneficiaries the rules covered; and to guarantee more inclusive language. The new version establishes that the causes of vulnerability include: age, disability, belonging to indigenous communities or other ethnic-cultural diversities, including people of African descent, as well as victimisation, migration, being a refugee or internally displaced person, poverty, gender, sexual orientation and gender identity and deprivation of liberty.

## SUPPORT ITINERARY BY EUROSOCIAL

EUROsociAL+ is currently accompanying the Ibero-American Judicial Summit Brasilia Rules Monitoring Commission in implementation at the regional level. The action seeks to disseminate, sensitise and implement the new Brasilia Rules approved at the Plenary Assembly of the Judicial Summit held in Quito, Ecuador, in April 2018, through three components:

1. Annotated Guide addressed to legal professionals (judges, prosecutors, defenders, lawyers, etc.);
2. Regional dissemination and awareness-raising strategy;
3. Manual for the construction of public policies on access to justice for vulnerable people.

## THE CASE OF LORENZA CAYUHAN

Lorenza Cayuhan, a leader of the Mapuche Mawidache community in Alto Antiquina, Chile, was accused by an anonymous witness of allegedly stealing a chainsaw, cooler, GPS, file, axe and a camera from employees of a logging company. Her community has been fighting for years for the land called Alto Antiquina, now in the hands of two logging companies, which has caused problems relating to food security (agriculture), water scarcity and health problems for the local population. Lorenza was sentenced to 5 years and 61 days.

Although eight months pregnant, she was held in the Arauco Preventive Detention Centre. After presenting health problems, she was transferred -bound in shackles- to a hospital more than 72 km away. Due to the urgency of her situation, the victim had to be transferred to another hospital, also in shackles. She was taken to the delivery room handcuffed to the hospital bed. A male official accompanied her, watching as the woman undressed to put on her hospital gown, as gynaecological examinations were performed and during a caesarean section. The woman gave birth to a girl, shackled and with handcuffs on her ankles, under continuous surveillance by the police.

Lorenza's case involves multiple discrimination, what we call the intersectionality of discrimination for being a woman, Mapuche, pregnant and deprived of liberty. The case presents several causes of vulnerability. The public defender assigned to Lorenza's case, in his plea during the appeal due to infringement of fundamental rights and freedoms, underlined the application of the Brasilia Rules in this case.

Finally, the Chilean Supreme Court, in its judgement of 1 December 2016, ruled that there had been a "paradigmatic situation of



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*intersectionality in discrimination, where a confluence of intersecting factors of discrimination are observed that enhance and negatively impact the protected party, because she received unjust, degrading and humiliating treatment, given her condition as a woman, pregnant, in labour, deprived of freedom and belonging to the Mapuche ethnic group, which unnecessarily put her health and life at risk, as well as that of her daughter, all this, in contravention of current national and international regulations on the subject".*

*"The State has transgressed in its obligation to protect the protected party from the violence exercised by prison officials, by allowing the person in a vulnerable condition, given her state of pregnancy and being deprived of liberty, to be subjected to humiliating and degrading treatment that should have been avoided".*

EUROsociAL+ is currently providing Chile with support. It is working with the Public Criminal Defence and the Ministry of Justice to draft a protocol for the defence of women deprived of liberty and in the Registration, Communication and Comprehensive Care System for Victims of Institutional Prison Violence (SIRCAVI).

Working with:

