



**Country/Organisation:** Spain - Metzineres

**What are the primary challenges your country faces in ensuring equal access to justice within your criminal justice system? How do these challenges impact groups in vulnerable situation in your society? Please provide a thorough and detailed response.**

At Metzineres, we observe the multifaceted criminalization faced by individuals in social and economic vulnerability, particularly concerning minor offences. Most participants are allegedly involved in minor offences, typically non-serious crimes that generally do not require legal counsel, except in specific cases. Our data reveals that the most common minor offences among participants are the unauthorized appropriation of documents and petty theft, both involving movable property valued under €400. A stark disparity exists in how individuals are treated based on whether they are substance users in vulnerable situations. For instance, Metzineres assisted a participant who reported the loss of her NIE and returned a driver's license she found, only to be charged with unauthorized appropriation of the license.

In cases of petty theft, participants are often prosecuted for stealing items of negligible value, driven by a lack of basic resources. One participant was fined €180 for stealing €6 worth of food from a supermarket. The 2022 reform regarding repeat offences and petty theft signals a shift towards harsher penalties. Since then, individuals with three petty theft convictions totaling €400 who commit another petty theft are no longer tried under the minor offence procedure but face an abbreviated procedure, risking up to 18 months in prison. This means someone with a history of petty theft, often linked to economic vulnerability, could now face a year and a half in prison for a new minor theft.

Minor offence trials do not require legal representation, meaning those without financial resources often lack access to a public defender. The absence of legal counsel often leads to disproportionate fines that do not align with the individual's financial capacity. In many cases, the convicted individual cannot pay the fine, leading the court to declare personal subsidiary liability, which can be fulfilled through imprisonment or community service (TBCs). Courts often automatically order imprisonment without offering the option of community service, a choice individuals may not be

aware of, especially without legal representation. Even with legal counsel, the court may not adopt TBCs due to a lack of knowledge or willingness by the judiciary. As a result, many individuals in vulnerable situations end up in prison, disrupting vital life processes. Even if not convicted, the judicial process itself is often stigmatizing, prolonged, and creates significant uncertainty.

On the administrative side, regulations penalize behaviors closely linked to social and economic vulnerability, making Metzineres' participants particularly susceptible. In Barcelona, the "Ordinance for the Promotion and Guarantee of Public Space Coexistence" criminalizes begging, offering or soliciting sexual services, public urination, unauthorized street vending, and public alcohol consumption. These behaviors are punished with fines, and while non-payment does not lead to imprisonment, it hinders access to municipal social aid. The "Pla Endreça" has led to increased local sanctions, dismantling informal settlements, and higher police presence. Similar to TBCs, there are Alternative Sanction Measures (ASM) in the administrative sphere, allowing individuals without financial resources to fulfill sanctions through non-monetary activities. However, this option is rarely promoted by the administration, undermining its potential as a corrective measure for inequality.

Criminalization extends beyond legal proceedings to routine identification or street checks, exacerbating the social stigma faced by those in socio-economic vulnerability who use drugs, reinforcing their image as perpetual offenders. This impacts all areas of life, from difficulties in securing employment or housing to the loss of custody of children.

**Can you provide examples of initiatives or policies that have been successful in addressing access to justice issues in your country? What key lessons have been learned from these initiatives or policies? Please provide a thorough and detailed response.**

Metzineres is a commendable initiative to promote access to justice for women, trans women and non-binary individuals in socio-economic vulnerability who use drugs within the Spanish State.

Barriers to accessing justice begin at the police station and in healthcare facilities. As individuals that had survived violence, women supported by Metzineres tend to avoid reporting to the police

and refrain from seeking medical attention, even in cases where obtaining a medical report is necessary, due to fear of being questioned and stigmatized. In response to this, Metzineres offers accompaniment to women in these situations, initiating the necessary procedures if stigmatizing circumstances arise. When individuals are suspected of committing a crime and are detained at the police station, Metzineres informs the assigned public defender about their socio-economic vulnerability and drug use, in cases where it is relevant, to ensure proper defense from the start of the legal process.

Barriers persist in the judicial system. First, the system for notifying judicial resolutions requires individuals to provide an address where they can receive notifications. This requirement puts homeless individuals, who cannot provide a permanent address, at a higher risk of being stopped and/or detained by the police solely to receive a notification. In this situation, Metzineres' participants can use our office as their address for receiving such notifications, thereby minimizing police intervention. Additionally, the legal team at Metzineres maintains direct contact with the Mossos de Esquadra (Catalan police) to coordinate the proper receipt of these notifications. Second, the technical language used in judicial resolutions often prevents participants from fully understanding their content, so the Metzineres legal team, if requested, assists in their comprehension. Another barrier to full access to justice is the inability of public defenders to contact the women due to the lack of a mobile phone in many cases. To address this issue, if the women authorize it, the Metzineres lawyers can act as intermediaries. Coordination between public defenders and Metzineres lawyers is also essential for the proper defense of the women, allowing the public defenders to submit all relevant reports on the life circumstances of their clients to the court, facilitating the application of mitigating circumstances if they are convicted. Finally, as mentioned in question 5, the involvement of Metzineres lawyers in legal proceedings where Spanish law does not require the mandatory presence of a lawyer is crucial in reducing the criminalization these women face.

The main lesson learned is that the judicial system is not equipped to support individuals in socio-economic vulnerability and drug use, neither materially, due to a lack of resources requiring the intervention of third parties, nor in terms of awareness, as there is a lack of training to break the stigma.

**What are the best practices currently being implemented in your criminal justice system to enhance access to legal aid and fair trials? How do these best practices improve outcomes for individuals involved in the criminal justice system? Please provide a thorough and detailed response.**

The existing practices in the Spanish judicial system to ensure legal assistance and fair trials are NOT innovative; rather, they constitute the minimum standards necessary to give meaning to fundamental rights in criminal proceedings. Some examples include free legal assistance for individuals without resources, the recording of oral hearings during trials, the presence of translators in the courts, and the possibility of appealing to a higher court.

**What factors have been crucial in enabling successful reforms or improvements in your criminal justice system? How can these enabling factors be replicated or adapted in other contexts or regions to ensure equal access to justice for all? Please provide a thorough and detailed response.**

In recent years, there have been few reforms in the Spanish judicial system aimed at ensuring greater enjoyment of human rights. However, the reforms that have occurred in this regard have stemmed from the strength of social mobilization, as seen in the reform of offenses against sexual freedom. Therefore, eliminating access barriers in the Spanish judicial system, as well as in other regions, requires the development of mechanisms to ensure that the voices of affected individuals and the professionals who support them are heard by public authorities. This issue must be placed at the forefront of the political agenda.

Additionally, it is necessary to create training programs for police forces, healthcare teams, and legal operators on the realities faced by the groups affected by these barriers, such as people who use drugs, to reduce the stigma against them and, consequently, to ensure full access to justice.