



CONTRIBUTION TO THE 11th SESSION OF THE OEWG ON AGEING:

FOCUS AREA: ACCESS TO JUSTICE

(1) There is no specific Italian law protecting older people's right of access to justice. That is to say the older people's rights are not protected because they are a vulnerable group, or considered as such. Italian laws protect rights in general and protect their enjoyment.

In some particular circumstances people are specifically nominated when it comes to the protection of specific rights or the entitlement to specific allowances.

Such is the case of artt. 90 quater and 91 of the Criminal Procedure Code. Art. 90 establishes (in defining vulnerable groups who should be protected when accessing justice) that the "condition of particular vulnerability is determined also by age". By art. 91 "associations and NGOs recognised as acting with the purpose of safeguarding damaged interests and rights, can act in each and every degree of judgement and exercise the rights of the damaged person"

Another particular circumstance is the recognition of specific protection during the reporting phase. That's the case of L. 128/2001 art. 17: "when crime victims are... OLDER PEOPLE or otherwise impaired, following intervention requirement... a police representative is supposed to go to the victim's domicile to receive and formalize the complaint"

(2) Again, there are no specific provisions for older people facing geographical or bureaucratic challenges, ect. but, for instance, art 57 of the Italian Code of Criminal Procedure states that in case the victim lives in remote or rural areas (and in case of lack of police stations), the mayor can act as a police officer.

(3) Physical accessibility to justice (as to every other public office) is granted under art 8 lett. c) (on the removal of architectural barriers) Law 104/1992 on disability and every following related legal provision. Art 3 of this law equalizes older people to disabled people.

Art 2 of the Italian Constitution states that "The (Italian) Republic acknowledges and grants the inviolable human rights, being human a single person or a community where his/her personality is achieved, and it requires the accomplishment of the inderogable political, economic and social duties"

As for the affordability, free legal patronage is granted by DPR (Decree of the President of the Republic) 115/2002 art. 76, to every person – whose income doesn't exceed a determined amount – involved in legal procedures

(5) There are several challenges in accessing justice by older people. Sometimes even protection instruments could act as a barrier. Compulsory nominee of Support Administrator (normally a legal assistant, an accountant or a family member) could turn to be a bad thing for an older person, especially:

- when living in care home settings,



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- when facing an important cognitive decline,
- when there is no supporting family.

This, in fact, could turn to be a measure to avoid contacts between the older beneficiary and the judicial system rather than a protection measure to grant the respect of a person's need and will.

Ageism is also a big challenge, being widespread in every social context, even among those professionals, whose main obligation is the protection of the population.

Waiting time is also a problem, when older people need immediate recognition, address and remedy.

(6) Under Law 67/2006 (measures for the judicial protection of persons with disabilities who suffered discrimination) Associations and equity bodies - specifically identified by the competent Ministry - can legally act, following a ad hoc proxy, in name and on behalf of victims of discrimination. In this case older people are included on the basis of art. 3 Law 104/1992

Within the area of some Italian courts, assistance and support are provided by social workers gathered in specific help points.

Law 247/2012 art. 30, (regulation of the legal profession) sets that "The Local Forensic Councils establish help points of free advice and information regarding the fruition of legal assistance and access to justice"

(7) Within a criminal trial, judges and lawyers can adapt the legal procedure and setting to the specific conditions of the victim of crime

(8) As natural consequence of art. 2 of the Italian Constitution, a generic right to kindness in public administration offices is now recognised, although not ruled.

(9) Judges and magistrates are accountable for malicious or wrongful conduct.

Ethic codes of professional behaviour are provided by the Ministry of justice.

Law 146/2013 art. 7 establishes the new role of national guarantor of the rights of persons convicted and deprived of personal freedom. By extension the guarantor acts in favour of every vulnerable group.

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