

## **Report on the legal status of the elderly in Spain**

**Report by  
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### **Article 50**

**Article 50 of the Spanish Constitution: The public authorities shall guarantee, through adequate and periodically updated pensions, economic sufficiency to the citizens during advanced age. Likewise, and regardless of family obligations, they will promote their well-being through a system of social services that will address specific health, housing, culture and leisure problems.**

International complaint and protection mechanisms

To the extent that the violation of the principles set forth in Article 50 implies a violation of the rights contemplated in the different international human rights instruments, international mechanisms of denunciation and protection established for the defense of these human rights will be applicable. Generally (but not always and in every case) to resort to these international mechanisms of denunciation and protection, it will be necessary to exhaust the domestic judicial route beforehand.

Article 50 is the only one of all the articles that make up our supreme norm that expressly mentions "third age". Certainly the elderly are holders of rights contemplated in the Constitution, without having an influence on the ownership of their rights. It is necessary to reiterate that, unlike what happens with other vulnerable groups such as children or immigrant workers, there is currently no binding international norm for the Spanish State, which includes a catalog of the rights of the elderly. Although the absence of this international norm does not imply the lack of protection of the elderly in our country. There are binding treaties signed by Spain regarding the protection of human rights and others that address the problem of social protection for the elderly. In any case, there is a lack of an international treaty that expressly concerns itself with the elimination of all forms of discrimination based on age.

Article 50 is integrated into Chapter III ("On the guiding principles of social and economic policy") of Title I of the Constitution. In this regard, Article 53.3 provides that the recognition, respect and protection of the principles recognized shall inform the positive legislation, judicial practice and the actions of the public authorities. Under the article, recipients of the mandate included in it are the public authorities while the beneficiaries would be the citizens during the third age. This protection mandate imposed by Article 50 on public authorities is articulated in two ways: first, the guarantee of economic sufficiency; second, the promotion of social welfare, through social benefits derived from

specific sector programs. The achievement of economic sufficiency will be obtained through monetary benefits of a periodic and life-long nature ("adequate and periodically updated pensions") while the promotion of social welfare will be sought through technical benefits. The applicable Social Security legislation distinguishes two regimes: retirement pensions in their contributory modality and non-contributory retirement pensions. The contributory modality is defined around a professional criterion (workers and within this category, employed persons, self-employed workers, public officials, etc.). The law establishes the retirement age, which sets 65 years, age that can be anticipated or delayed in certain circumstances. Regarding non-contributory pensions, they are established for people over 65 who lack sufficient income or income.

Thus, the subjective scope of protection that encompasses Article 50 refers to citizens, not only to those who have belonged to the active population and meet a series of conditions for the enjoyment of the benefit. So the scope of benefits is defined by the universality note. From Article 50 it seems that the third age is related to the collection of economic benefits (pensions) from which a correspondence of the third age is set with the retirement age. In western countries, there is a tendency to assume a certain correspondence between senescence and retirement age, which is between 60 and 65 years. Although the current trend is towards increasing the retirement age, given the demographic aging experienced. On the other hand, in developing countries, where retirement may be non-existent, this system based on the retirement age does not have much meaning, the different functions assigned to each stage of life being more important. In this case, old age is considered to be the period of life in which people, due to the loss of their physical capacity, can no longer perform their family or work functions.

Within the normative development of art. 50, first of all, it is necessary to highlight Law 39/2006, of December 14, on the Promotion of Personal Autonomy and Care for people in situations of dependency. This law displays its effects not only on the group of elderly people, but also fundamentally on the group of disabled people, and therefore it is configured as a development not only of art. 50 of the Constitution, but also of 49, as stated by the law in its explanatory statement. The Law establishes a minimum level of protection, defined and financially guaranteed by the General State Administration. Likewise, as a second level of protection, the Law contemplates a regime of cooperation and financing between the General State Administration and the Autonomous Communities through agreements for the development and application of the other benefits and services contemplated in the Law. Finally, Autonomous Communities may develop, if they deem appropriate, an additional third level of protection for citizens.

### **Conclusion of Treaties**

Spanish Constitution: Article 93. By means of the organic law, the conclusion of treaties may be authorized by which the exercise of powers derived from the Constitution is attributed to an international organization or institution. It is the responsibility of the General Courts or the Government, as the case may be, to guarantee compliance with these treaties and the resolutions issued by the international or supranational

organizations that are the owners of the transfer. Article 94 1. The provision of the State's consent to be bound by treaties or agreements will require the prior authorization of the General Courts, in the following cases: a) Treaties of a political nature. b) Treaties or agreements of a military nature. c) Treaties or agreements that affect the territorial integrity of the State or the fundamental rights and duties established in Title I. d) Treaties or agreements that imply financial obligations for the Public Treasury. e) Treaties or agreements that imply modifications or repeal of any law or require legislative measures for its execution. 2. Congress and the Senate will be immediately informed of the conclusion of the remaining treaties or agreements. Article 95 1. The conclusion of an international treaty containing stipulations contrary to the Constitution will require prior constitutional review. 2. The Government or any of the Chambers may require the Constitutional Court to declare whether or not such a contradiction exists.

### **Pension Entitlement**

The requirements to cause entitlement to a pension (to be affiliated and registered in the corresponding Social Security regime, to have reached retirement age and to have covered a minimum contribution period of fifteen years, of which at least 2 must be included within the 15 years immediately prior to the moment of causing the right) highlight the contributory nature of these pensions, computed on the benefit-pension equivalence, that is, contribution-protection.

The General Law of Social Security establishes in art. 205.1.a) the retirement age, which is set at 67 years - or 65 when 38 years are credited and 6 months of contribution -, age that should be considered as a basic scale although optional since the retirement can be anticipated or delayed in certain circumstances. Thus, articles 206 to 208 of the LGSS regulate the following cases of early retirement:

- by reason of the activity (art. 206.1); the minimum age of access to the retirement pension may be reduced by royal decree -in any case before age 52- in those groups or professional activities whose work is exceptionally painful, toxic, dangerous or unhealthy in nature and accuse high rates of morbidity or mortality;
- by reason of disability (art. 206.2), to a degree equal to or greater than 65 percent, or also to a degree of disability equal to or greater than 45 percent, in the case of specific legally determined disabilities;
- for a cause not attributable to the will of the worker (art. 207), which requires, among other requirements, to have reached an age that is less than 4 years, at most, at the retirement age provided for in art. 205.1.a), accredit a minimum effective contribution period of 33 years, and that the termination of work has occurred as a result of a business restructuring situation that prevents the continuity of the employment relationship;

- early retirement at the will of the interested party (art. 208), which may be accessed by those who have reached an age that is less than 2 years, at the most, at the retirement age established in art. 205.1.a), and prove a minimum effective contribution period of 35 years.

### **International Normative Law**

The International Human Rights Charter does not include any specific prohibition of age discrimination. In addition, there is currently no binding international norm for the Spanish State that collects a catalog of rights of the elderly due to their status as such. The absence of such an international norm does not imply the lack of protection of the elderly in our country as the Spanish Constitution configures the right of the elderly to economic sufficiency, through an adequate and updated pension system, and the right to receive social services benefits to meet their specific health, housing, culture and leisure needs. On the other hand, the General Courts and the Autonomous Communities have approved various norms that incorporate into our legal system some rights destined, among others, to the elderly. All these rights are subject to the protection of the institutions of the Ombudsman in Spain, which fulfill a capital role in the guarantee framework that contemplates our legal system. The ordinary and extraordinary reports of the Ombudsman's offices show a continuous and exhaustive supervision of the activity of all public administrations in the exercise of their powers. However, and notwithstanding that each defender's mission has the mission of protecting the rights of people in their territorial sphere of action, we understand that the improvement of coordination between these institutions, in certain aspects, can result in the improvement of the service that lend to the elderly.

In order to analyse institutions that defend the rights of the elderly, it would be necessary to define in advance what the rights of the elderly are. There is no excessive effort to conceptualize and categorize these rights in the doctrine and in the legislation, notwithstanding that in some autonomous communities laws have been passed that include catalogs of rights, although these refer to the subjects that are the responsibility of each Autonomous Community.

It is possible that the cause of this doctrinal "unconcern" is due both to the absence of international normative references, which has a binding force and, for example, the Convention on the rights of the child and other international texts, with respect to minors, such as the horizontal nature of the legislation, which regulates specific rights of the elderly in specific sectors (social security, health, participation, culture, personal and property protection ...), but which has not established a general catalog of rights with validity throughout the national territory.

However, none of the provisions mentioned above can be considered as an international treaty, in the sense contemplated in the Third Chapter of Title III of the Spanish Constitution. In this regard neither the United Nations Principles in favor of the Elderly, nor the International Plan of Action against Aging, nor Parliament's Resolution or Communication from the Commission to the Council and Parliament European, are part of

our legal system and, consequently, do not create rights in the subjective sphere of the elderly.

However, on some occasions the Constitutional Court has served as the exegesis of the fundamental rights not only of International Treaties, but also of decisions emanating from their guarantee bodies and, also, of other texts or documents produced within international organizations in which Spain is integrated.

### **Rights of The Elderly**

Article 50 - "The public authorities will guarantee, by means of adequate and periodically updated pensions, the economic sufficiency to the citizens during the third age. Likewise, and regardless of family obligations, they will promote their well-being through a system of social services that will address their specific health, housing, culture and leisure problems." Following from this, it should be noted that the legal effectiveness of this provision appears determined for its location within the third chapter of the first title, On the guiding principles of social and economic policy. This chapter presents a heterogeneous (dissimilar elements) content that makes its application difficult. Specifically, article 50 integrates, beyond a desirable subjective right relative to the elderly, an institutional guarantee aimed at achieving the economic sufficiency of the elderly through a pension system, and the proclamation of an end or objective of the State to the effects of achieving integral well-being through a social services system that addresses specific health, housing, culture and leisure problems. The guarantee that the Constitution gives to give effectiveness to its content translates into the mandate of the third section of article 53 where it is established that the recognition, respect and protection of the principles recognized in the third Chapter shall inform the positive legislation, the judicial practice and the performance of public authorities. They may only be alleged before the ordinary Jurisdiction in accordance with the provisions of the laws that develop them. That is, on the one hand, the link, in the terms expressed, of all public powers to its content, will force "to keep it in mind in the interpretation of both the remaining constitutional norms and the laws" (STC 19/1982, FJ 6) and, on the other hand, it is necessary to mediate a law for this precept that can be alleged before the ordinary jurisdiction for the purposes of establishing a procedural action in its defense.

- The right to personal and property protection. Through various regulations of a state nature, the legislator has been configuring what we could identify as a generic right to the protection of persons with disabilities and the elderly, which is found in provisions such as the Civil Code, which regulates disability of persons, family care and guardianship and conservatorship figures, Law 41/2003, of November 18, on Patrimonial Protection of Persons with Disabilities, Law 42/2003, of November 21, which protects the elderly within the family structure, preventing restrictions without just cause of communications between grandparents and grandchildren, and even the Criminal Code, which typifies the abuse of the elderly within the crimes of domestic violence.

- The right to be treated in a situation of dependency. It is a recently established right at the state level (Law 39/2006, of December 14, on the Promotion of Personal Autonomy and Care for People in Dependency) that is incardinated in our social services system, but acquires its own autonomy and substantivity due to its character of subjective law, whose compliance is mandatory for public authorities, without any reference to the lack of budgetary availability, as with a large number of social benefits that, due to their complementary nature, They do not enjoy this guarantee. It is a right whose recipients are dependent people, not the elderly, although the increase in longevity results in the existence of a large number of elderly dependents.
- The right to an accessible environment. Law 51/2003, of December 2, on Equal Opportunities, Non-Discrimination and Universal Accessibility of Persons with Disabilities is a Law that is not intended for the group of the elderly but for persons with disabilities. However, a large number of older people, particularly in the age group of 80 years and older, suffer disabilities in varying degrees, which makes them direct beneficiaries of the principles of non-discrimination, positive action and universal accessibility, which serve of basis for achieving the objective of this law: guarantee and recognize the right of persons with disabilities to equal opportunities in all areas of political, economic, cultural and social life.
- The right to socio-health care. Law 16/2003, of May 28, on Cohesion and Quality of the National Health System considers this care as the set of care for those patients, generally chronic, who due to their special characteristics can benefit from the simultaneous and synergistic action of health and social services to increase their autonomy, alleviate their limitations or sufferings and facilitate their social reintegration.

### **Autonomous Communities**

There are not many attempts to classify or systematize the rights of older persons within the Spanish doctrine. Nor is there a normative text dedicated exclusively to defining or cataloging the rights of the elderly. To understand the scope of this issue, it must be mentioned the type of political organization that exists in Spain since 1978, that is, the autonomous state, in which the central organization of the State and that of seventeen autonomous communities, based in the principle of competence distribution, so that there are competences that reside exclusively in the State, in the autonomous communities, and others that are exercised concurrently by the two levels.

In our political system, the autonomous communities have the capacity of self-government and have legislative power within the framework of their powers, so, when cataloging and defining the rights of the elderly in Spain, it is necessary to analyze the legislative activity deployed by these. In this regard, all Spanish autonomous communities have assumed competences in the field of social services, and have approved standards that, although in the first stage they focused their efforts in the field of provision (generate services from the public initiative and regulate the criteria of access), in the second stage they have preferably been concerned with the regulation and control of the benefit, as the private

initiative has been entering the social services sector. Finally, some of the most modern social services laws have introduced advances in the protection of the elderly, configuring certain rights as authentic subjective rights, thus overcoming the care approach that has prevailed in our social care system.

Certain sectors have criticized certain adverse effects caused by the existence of different social services laws in each autonomous community, since this legislative diversity implies, in practice, an inequality before the law depending on the territory of residence. The configuration of the state of autonomy itself makes it difficult to homogenize the rights, benefits and services that correspond to the citizens of each autonomous community. It is precisely the capacity for self-government that gives each territory power to decide its priorities, and it is difficult to establish a list of common benefits, which in any case would not prevent the approval of minimum benefits that would be guaranteed throughout the territory of the state, as it seems to happen with the Dependency Care System.

All Spanish autonomous communities have assumed competences in the field of social services and have approved regulatory norms for this activity and, in some cases, have approved norms specifically dedicated to the protection of the rights of the elderly. From the analysis of the regulations developed by the seventeen autonomous communities, the existence of three different groups of rights could be noted. Not all communities have approved all three rights groups although most of those rights in each community could be invoked. Thus, a first block includes a series of rights of all the elderly in each community. These are the rights to economic and legal protection, to health care, to education and training, to raising awareness of society with the elderly, to enjoy adequate housing and urban conditions, to enjoy leisure and entertainment, culture and participation. The second block integrates the set of rights that correspond to all users of social services. This block incorporates the rights to non-discrimination in access, use and voluntary cessation of services, participation in the management of the social services system and the free association of its users for the defense of their services interests. Finally, the third block has a more specific character, since it defines the rights that correspond to the users of residential centers for the elderly.

The autonomous communities, in the exercise of their power of self-government, have also incorporated into the legal system certain rights that largely correspond to the elderly residing therein. In this sense, the existence of three blocks of rights is detected; those that would correspond to any older person residing in an Autonomous Community, those that would correspond to the elderly who are users of the social services of an autonomous community and, finally, the rights that would correspond to the elderly who are users of residential centers intended for this group.

## Ombudsman

After the approval of the Constitution, most Autonomous Communities included in their respective Statutes of Autonomy similar institutions to that of the Ombudsman, although they differed from it in the territorial and institutional level in which they were to develop their task, attending to the competence distribution designed in the so-called constitutionality block.

Without delving into the particularities of each of these institutions, there is currently an Ombudsman, who protects the rights of all citizens throughout the Spanish territory, supervising all public administrations for this purpose (state, regional and local). Along with this figure, there are Ombudsmen in 12 of the 17 autonomous communities that exist in Spain, which also dedicate themselves primarily to the protection of the constitutional rights of citizens, although they circumscribe their task to the autonomous community, and supervise exclusively the regional administration and, in some cases to the local administration, reporting their activity to the respective legislative assemblies by which they are commissioned.

In short, the Institutions of the Ombudsmen are a fundamental reference in our institutional scheme for the protection of the rights of the elderly, and knowing the extent and limits of their activity with respect to the rights of the elderly, a considerable aspect of this job.

Both the Ombudsman of Spain and the Ombudsmen of the autonomous communities are public institutions that defend the constitutional rights of citizens, whose creation by law is provided for in the Spanish Constitution, in the case of the former, and in the different Statutes of Autonomy, in the case of the second. The “density” of regulation that is clear from both article 54 of the Constitution and the respective articles of the Statutes of Autonomy is different, in relation to each of the aforementioned institutions, although certain common characteristics that conform in a certain way are recognized measure, already from the constitutionality block, the hallmarks of the figure of the Ombudsman that has been incorporated into the Spanish legal system.

It should also be remembered that the Ombudsman is not the only institution or mechanism for the protection of the rights of the elderly in Spain. Firstly, because all public powers are linked to the rights and duties contained in Chapter II of Title I of the Constitution, and their actions must recognize, respect and protect the principles recognized in Chapter III of the same Title. Second, because there are various procedures to seek the protection of judges and courts against violations of the aforementioned rights. And finally, because both the different public administrations and the civil society itself have created (and continue to create), numerous institutions, entities, organizations and figures whose purpose is to protect the elderly in the exercise of their rights.



It is also necessary here to clarify that when we talk about Ombudsman we are referring to a series of institutions with a similar legal nature. Some of the characteristics that these institutions share are:

- They are commissioners of the legislative assemblies or of the General Courts.
- They act independently, without being subject to imperative mandate.
- Protect all constitutional rights and freedoms, without being limited to a specific sector or population group.
- They report their work to the body that commissioned them.
- They can act ex officio or at the request of a party.
- Its resolutions are not executive.

A search in a database of legislation demonstrates the absence of the figure of the Ombudsman in the autonomous communities of Madrid, Cantabria, Extremadura, Murcia, is enough, or the Balearic Islands, as well as in the autonomous cities of Ceuta and Melilla.

### **Ombudsman's Report**

In the Ombudsman's report, there are no subdivisions in the part referring to the elderly, and a series of issues are mentioned, which are also usually common in the reports of said institution. However, a brief reflection is previously made on the attention to dependency and the preliminary draft law on personal autonomy and attention to dependence. The issues addressed in the Ombudsman's report are: The demands for residential care due to the insufficient supply of public places, the difficulties in making a change of residence or swaps between autonomous communities, since this possibility is not legally provided for, inadequate attention to users in some residences, with particular emphasis on the dietary issue and, finally, the need to increase the home help service.

With regard to retirement, the Ombudsman highlights, as in previous years, complaints regarding the application of reducing coefficients in the calculation of the pension. The disagreement of some interested parties is also raised with the period of contribution bases taken into account for the calculation of the pension, and complaints related to the economic effects derived from the right to old-age pensions of the Obligatory Old-Age and Disability Insurance (SOVI). In the heading of non-contributory pensions there is no reference to any action related to the non-contributory retirement pension.

The Ombudsman's report includes complaints regarding Health, Social Security and Consumption, within a block called Health and Social Policy, but complaints regarding the rights of the elderly are not specified.

With respect to the elderly, the reports of the Ombudsman offices show a continuous and exhaustive supervision of the activity of all public administrations in the exercise of their powers. The Ombudsman have verified the deficit of residential places for the elderly in

most of the autonomous communities and have suggested an increase in budgetary allocations for this purpose; they have reviewed many procedures in which access to a residential plaza or a day-care center has been denied, monitoring strict compliance with the law; they have personally inspected residential centers or have instigated the inspection activity of the competent services of the autonomous communities; they have echoed the difficulty posed by an inter-autonomous swap of residential plaza; they have demanded the improvement of the quality of care of nursing homes; they have proposed the increase of the economic endowment for the care of dependent people in their home; they have proposed the extension of university programs for the elderly in places where their offer does not reach; have proposed the increase of housing for the elderly in the public housing development; they have echoed the shortage of economic means of many older people, they have activated the appropriate mechanisms so that the prosecution knows the existence of elderly people at risk because of their incapacity caused by senile dementia; they have denounced the insufficiency of the programs of care for the elderly in their home and have reflected and contributed work proposals to prevent and fight against ill-treatment of the elderly.

As noted above, the assessment of the activity carried out by the Ombudsman in Spain, in defense of the rights of the elderly, is of fundamental importance in the guarantee framework of our legal system. These institutions are doing high quality work that is having a positive impact on the protection of the rights of the elderly. Despite this, and with the respect that all of these institutions deserve some of a general nature and others specifically related to the work of the Ombudsman, which can contribute to improving the protection of the rights of the elderly.

### **Autonomous Community Ombudsman Report**

In the report of the Ombudsman of Andalusia, in the part referring to the right to social protection of the elderly, no subdivisions are established by subject. The issues addressed in the report are the delay in the resolution of requests for home help service, problems related to the operation of some resources for the elderly, such as residential centers and day centers, and a specific problem regarding an association Alzheimer's, who denounces the stoppage of various administrative matters by a city council.

In the Aragon Justice report, it is pointed out that residential care continues to focus the greatest number of complaints, on aspects such as waiting lists, access criteria and assessments, the prices of places and the state and operation of the centers . They have also received the demands of many families regarding the financial assistance granted by the Administration to defray the cost of private residential establishments, in the sense of their possible extension to the centers and services of day stays, as well as complaints in which the disagreement of some citizens with the current center transfer system is expressed, since of each of the four places only one is destined to the transfer of users, complaints about the provision of the home help service and, finally, complaints about the attention to Alzheimer's patients and their families.

In the report of the Deputy of the Common, the main issues in socio-health care are the insufficiency of the offer of residential places for the elderly and the problems in the functioning of some residences, the inefficiency of the mechanisms of entry into residence in cases of urgent and extreme need and the inadequacy of aid for the care of dependent elderly people in their home. In public services, their lack is mentioned in a nucleus of rural population inhabited only by older people. With regard to the right to personal protection of the elderly, the abuse of the elderly is addressed, with an ex officio investigation and the analysis of some complaints on this issue. In housing refers to the public promotion of homes specifically aimed at older people. And in education to the extension of university programs for adults to certain islands where these courses are not offered.

In the report of the Ombudsman of Castilla La Mancha, with regard to nursing homes, some complaints are highlighted that disagree with the requirements for access to residences and the delay in processing applications for admission. It also refers to defects in the operation of some residences, both for the conditions of maintenance of the same as for the poor treatment that residents report in some cases and complaints regarding the lack of residential places or the need for new homes are referenced supervised for the elderly. With regard to the service of day stays, only the administrative problems in the processing of applications are indicated.

In the report of the Procurator of the Commonwealth of Castilla y León, under the heading of the elderly, the deficiencies in the operation of residential centers for the elderly are addressed first, both in residential centers of a private nature, and in residential centers of a public nature, in which there is a mismatch in the quality parameters due to the progressive deterioration of a significant number of residents who, at the time of admission, were considered valid. Subsequently, reference is made to the price regime applied in private residential centers, to the operation of non-residential care centers for the elderly, to the criteria of quality of care of the centers for the elderly and, finally, to access and help service rates at home.

In the report of the Catalan Ombudsman of Catalonia, the deficit of residential places continues to focus a good part of the complaints of this work area, highlighting the insufficiency of the alternatives or proposals, by the Administration, that make possible the maintenance and care of the elderly in the home. It also refers to the difficulties in requesting a change of resource (from day center to residence), when the applicant's circumstances are modified, for which it would be convenient to provide a simplified valuation procedure. Likewise, the difficulties of the applicants who have average incomes to access residential places, the lack or insufficient motivation of the resolutions denial of social benefits, and the insufficient information or unclear information that the elderly receive when addressing the administrations are collected.

The report of the Catalan Ombudsman refers actions related to the operation of residential centers and the services received by people admitted to these centers and refers to the issue of ill-treatment of the elderly.

The Ombudsman of Navarra, in the space dedicated to the transverse defense of the rights of the elderly, notes that the main areas of complaints raised by the elderly are the recognition of the right to benefit, minimum pensions, welfare and widow's pensions, home care, waiting lists in health, medical care, conditions of stay in nursing homes and disability declaration processes. Finally, in the space dedicated to the transverse defense of the rights of the elderly there is extensive reference to the presentation of the extraordinary report on the care for dependency of the elderly in Navarra, and realizes the actions that are being carried out for the preparation, with groups and associations of elders, of the Charter of Rights of the Major of said Regional Community.

In the report of the Síndic de Greuges de Valencia (Ombudsman of Valencia) regarding the elderly, the issues that stand out are the problems arising from the insufficient budget for financial assistance for the care of dependent elderly people, the problems of receiving subsidies for association of retirees, claims for obtaining public places in nursing homes, the risk situation presented by some people due to their disability due to senile dementia and family and guardian conflicts.

The report of the Valedor de Pobo de Galicia (Ombudsman of Galicia), in the sub-area of the elderly, deals preferentially with the deficit of residential places and the consequent problems that are generated for many people who need a residential place but whose score does not allow them entry. It also refers to the shortage of economic means of many older people, who also tend to run out with the co-payment of residential care or home care benefits they receive. Finally, the increase in prices in a residence of older persons with private ownership, problems in accessing home help service and the disagreement with some of the requirements of the support program for support families.

The Ararteko report of the Basque Country devotes a wide space of the social welfare chapters to deepen the main conclusions and recommendations made by said institution in the extraordinary report "Attention to the elderly in the Autonomous Community of the Basque Country: Service of Home Assistance, Day Centers and Residential Centers". Ararteko also refers to the approval of a new regulatory regulation of the public residence service for dependent elderly people in Vizcaya and the approval of the 2005-2008 socio-sanitary Strategic Plan of said territory, and expresses its disagreement with that rule re-conditioning the access to the residential centers of the regional network to the availability of a maximum income limit, as this provision contradicts the principle of service provision based on the level of need. Finally, it refers to the processing of an allusive complaint at the closing of a residence for the elderly, this being the only complaint included in the selection of the most significant complaints in this matter.

## **Suggestions**

1. Given the diversity of legal sources that generate rights for the elderly, both by the level of administration in which they are issued, and by the subject they develop, it would be useful for administrations with competencies in the area of older people to promote, with participation of the interested parties themselves, the drafting of letters of rights of the elderly, in clear and understandable terms.
2. Without prejudice to the participation of the elderly in the preparation of these documents, an effort should be made to disseminate these documents among the elderly and their groups, since only the knowledge of the rights themselves makes it possible to enforce them.
3. It is necessary to deepen the debate, at the technical and scientific level, but also with the participation of the elderly, about the convenience and usefulness of the approval of an international instrument that outlaws discrimination against elderly people and, where appropriate, establish a letter of rights for them, as is the case with other vulnerable groups.
4. With respect to the annual reports in which the Ombudsmen expose their respective efforts to the legislative chambers on which they depend, a homogenization or normalization of the presentation of statistical data on older persons would be useful.
5. Likewise, with respect to the aforementioned annual reports, the use of the same system could be studied when explaining the steps carried out by each institution in relation to the protection of the rights of the elderly.
6. With regard to the extraordinary reports made by the Ombudsman, regardless of the local treatment of issues that do not affect other territorial areas, the joint treatment of issues of general interest related to the protection of the rights of older people, through the preparation of reports in which all institutions participate, is recommended.
7. It is advisable to establish permanent mechanisms for the exchange of information and coordination between the institutions of the Ombudsman, as regards the protection of the rights of the elderly.