



ARGENTINA
DEFENSORÍA DEL PUEBLO DE LA NACIÓN
NATIONAL HUMAN RIGHTS INSTITUTION
Right to health and access to health services

1. The right to the protection of health is expressly recognised in the Argentine National Constitution (NC, sec. 42). However, after this initial recognition, a number of international human rights treaties were included in our legal system that deepened it (NC, sec. 75, para. 22). Salient here are the *ICESCR* and the *Inter-American Convention on Protecting the Human Rights of Older Persons*. Even in the regulatory field, different legal provisions were adopted, *inter alia*, a law creating the *National Institute of Social Services for Retirees and Pensioners* (INSSJP-PAMI) and a set of rules governing healthcare systems and programmes: *National Health Insurance System*; *Private Healthcare System*; the *Argentine Integrated Pension System*; and *National Active and Healthy Ageing Programme for Older Adults*.
2. Our National Constitution provides that Congress is empowered, *inter alia*, “*To legislate and promote positive measures guaranteeing true equal opportunities and treatment, the full benefit and exercise of the rights recognized by this Constitution and by the international treaties on human rights in force, particularly referring to children, women, the aged, and disabled persons.*” (NC, sec. 75, para. 23). Argentina’s healthcare system is composed by three subsystems (public, social security and private). People with no health coverage shall receive State assistance.
3. Argentina is today one of the most aged countries in the region. According to the *National Institute of Statistics and Censuses*, the population aged 60 and over reached 7,279,394 in 2021, representing 15.7% of the total. Life expectancy is 78.15 years, female 81.4 and male 74.9. Specific sampling procedures and in-depth analysis are carried out, such as the *National Survey on Quality of Life at Older Ages*, which include indicators to measure certain variables such as self-perceive health and memory; prescription and access to drugs; falls; depression, dependency and impairments; sexuality; connection with the community/family; tech management; use of leisure time; support networks; life satisfaction; etc.
4. A variety of training programmes have already been developed in different Government areas, such as the Ministries of Social Development; Health and Justice and Human Rights; the INSSJP-PAMI and the National Social Security Administration (ANSES).
5. According to the open budget data, in 2022, the Government allocated AR\$ 746,707 million to the health sector (6.31% of total public expenditure); remaining budget allocations for health relatively constant in last years.

6. In Argentina, older adults face many challenges, mainly ageism and the digitalisation in healthcare.
7. *The National Home Care Programme*; a Unit created under the Public Prosecutor's Office intended to investigate crimes committed within the domain of the INSSJP-PAMI; *Housing for Older Adults*, to be adequately housed; *The National Health and Active Ageing Programme for Older Adults*; "*The Experience Counts*", promoting the integration of older adults in youth activities; and "*The Culture of Good Treatment in Old Age*".
8. Older persons are able to exercise their legal capacity on an equal basis with others in all aspects of their lives. The *Civil and Commercial Code (CCC)* provides, as a general principle, that all human beings are entitled to exercise their rights by themselves, and the presumption of capacity is also established therein (CCC, sec. 22, 23, 31 a). Restrictions on the exercise of the legal capacity must be specific and exceptional, strictly confined to those matters in which a legal incapacity or activity limitations be determined (CCC, sec. 32, 38 and 43). Further, the *National Mental Health Law* reaffirmed several rights already granted, such as the right to provide free and informed consent in the field of health (sec. 32, 38 and 43), also included in the *Patients' Rights Law* (sec. 5 et seq.) and in the Civil and Commercial Code (sec. 59).
9. Our National Constitution grants a prompt and summary proceeding as an expeditious and rapid action for judicial protection against any act or omission of the public authorities or individuals (NC, sec.43). Regarding non-judicial mechanisms, the INSSJP-PAMI provides an out-of-court dispute resolution procedure available to its beneficiaries. Besides, the *Superintendence of Health Services* handles complaints submitted by older adults who are covered by either public or private healthcare insurance plans. Likewise, the *National Ombudsman's Office* hears complaints brought by older adults who believe that their right to health has been seriously affected, no matter what health coverage they have. Similarly, albeit to a different extent, the provincial and local Ombudsman's Offices investigate health-related complaints.
10. The popular initiative (NC, sec. 39) entitles citizens to introduce bills before the National Congress. Additionally, the popular consultation (NC, sec. 40) is intended to ask the public for its views, by voting. Meanwhile, the National Ombudsman's Office, working in its capacity as an independent expert, takes part in different Government committees, so as to bring people's concerns and needs to debate.