

Social Inclusion

Definition

- 1. How are the key human rights relating to older persons' social inclusión defined in national and local legislation in your country? If definition are not available, how should such rights be defined considering relevant existing national, regional, and International legal frameworks?*

Spanish Constitution in its article 50 establishes the promotion by public powers of older persons' welfare through, -among other public policies- social services which will provide them: health, housing, culture and leisure.

According to Title I named "Guiding principles of economic and social policy" older persons, like the rest of citizens, have the right to: social protection (article 39), economic and social progress (art.40), Social Security (art.41), health protection, sanitary education, physical education, sport and public support for access to leisure (art.43) and housing (art.47).

Although "social inclusion" is not specifically mentioned, the rank of rights aforementioned implies the recognition of social inclusion for older people in our Constitution.

2. *Please provide references to existing national legal standards relating to older persons social inclusion on normative elements such as:*

a) the right of older persons to take part in cultural life:

Article 44 establishes that public powers shall promote access to culture to which everyone has the right. Moreover, article 50 entitles older persons to receive public policies that guarantee their right, -among others-, to access to culture.

b) older persons's inclusion in the digital sphere:

Article 51 promotes the inclusion of older persons, as users and consumers of information and communication technologies in the digital sphere, taking into account that the aforementioned article guarantees the rights of all consumers and users.

c) ensuring that older persons can live independently and be included in the community;

Moreover article 50, dealed specifically with rights of older persons, Law 39/2006 on the Promotion of Personal Autonomy and Care to Dependent Persons establishes a rank of services and benefits that allow older persons to have an independent living and their inclusion in the community

d) ensuring the social inclusion of older persons living in institutions;

Law 36/2006 has been developed by administrative regulations that shall guarantee, according with their dependency degree, the social inclusion when older persons live in institutions instead in their homes.

e) older persons' inclusion in intergenerational policies and programmes;

Regional legislation on social services, and local regulations related with policies and programmes dealt with older persons, foreseen performance of different actions in which older persons participate together with younger generations.

f) Access to prompt remedies and redress when older persons' rights related to social inclusion are violated

Older persons, like all citizens, have the right to disclaim to administrative authorities, and, if it was the case, to appeal to judicial remedies in case of violation of their rights related to social inclusion.

State obligations

3. *What are the measures that should be undertaken by the State to respect, protect and fulfil relevant human rights to ensure the social inclusion of older persons?*

According to article 50 of Spanish Constitution, public powers shall guarantee the social inclusion of older persons, through their economic security provided with adequate pensions, and also with social services. Law 39/2006 aforementioned is the main legislative measure that develops this constitutional mandate.

Special consideration

4. *What special measures and specific considerations should be considered to respect, protect and fulfil relevant human rights to ensure the social inclusion of older persons?*

Article 54 foresees the intervention of Ombudsman, as High Commissioner of Parliament, supervising the administrative activity in relation with all the rights of Title I, in which social inclusion is included.

Moreover, a specific judicial procedure is regulated in article 55 when fundamental human rights are violated.

Implementation

5. *What are the best practices and main challenges faced by your country in the adoption and implementation of relevant human rights to ensure the social inclusion of older persons?*

In Spain, the main challenge in this issue is the protection of older persons who are in vulnerable situations due to lack of physical or mental capacity. In this regard, it is important to highlight the Law 8/2021 which reforms civil and procedure legislation in order to provide support to people who are not able to display their juridical capacity.