

HelpAge International España, April 2024

HelpAge International España Submission on “accessibility, infrastructure and habitat (transport, housing and access)”

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National legal and policy framework

What are the national legal provisions and policy frameworks that recognize older persons’ rights to accessibility, infrastructure and habitat (transport, housing and access)? This could include, but is not limited to:

- a) the right of older persons to adequate housing, including land, property and inheritance.

Article 33 of the Spanish Constitution establishes the right to inherit property, while the right to housing is established in Article 47 of the Spanish Constitution.

These rights are developed especially in the Civil Code, but it is found with some limits within the administrative law that establishes the law of urban leases, or the right to compulsory expropriation, but it is true that the latter figure is exceptional and it is not usual to use it.

Regarding the older people, it can be seen in article 50 of the Spanish Constitution how the older people have the right to housing. Currently 80% of the elderly are homeowners, but the housing is often not adequate to the needs of that person.

It is essential to point out that many of these issues are the responsibility of the autonomous communities, which also implies that there are differences depending on where people live.

- b) the right of older persons to access and enjoy, on an equal basis with others, the physical environment, transportation, information and communications (including ICTs), and other facilities and services open or provided to the public, both in urban and in rural areas (e.g. buildings, roads, transportation and other indoor and outdoor facilities, schools, housing, green spaces, medical facilities and workplaces; information, communications and other services, including electronic services and emergency services).

We can find it in the Law 6/2022, of March 31, amending the Consolidated Text of the General Law on the Rights of Persons with Disabilities and their Social Inclusion, approved by Royal Legislative Decree 1/2013, of November 29, to establish and regulate cognitive accessibility and its conditions of requirement and application, and in specific legislation on these issues that indicate that these spaces must be accessible.

90% of this legislation comes from the group of people with disabilities and thus assimilates the older people to the dependency without understanding that there may be differences.

c) policies/programmes that enable older persons to live independently and to be included in their communities as they age.

One of the major programs of policies for the older people in Spain is the network of friendly cities managed by the Imserso, it is true that many cities have made significant improvements in their cities thanks to the program.

Unfortunately, the program is not mandatory, but it is optional, depending on what the cities establish.

Data and research

What data, statistics and research are available at the national level regarding older persons' rights to accessibility, infrastructure and habitat (public transport, housing and access)?

In this regard, it is true that the CSIC, Consejo Superior de Investigaciones Científicas, prepares a report every two years called "El perfil de las personas mayores en España" (The profile of the older people in Spain) in this report you can see quite a lot of data, but it is true that generally there is not a lot of data on this issue.

Equality and non-discrimination

What measures are being taken to eliminate ageism, ageist stereotypes, prejudices and behaviours that hinder older persons' rights to accessibility, infrastructure and habitat (transport, housing and access)?

Some measures have been taken, such as Law 15/2022, and above all, progress has been made in terms of public policies, but unfortunately, no specific legislation for the older people has been implemented in this area.

A law is currently before the Congress of Deputies regarding access to banking services in rural areas.

Remedies and Redress.

What mechanisms are necessary, or already in place, for older persons to submit complaints and seek redress for denial of their rights to accessibility, infrastructure and habitat (transport, housing and access)?

Generally in this case the administrative route is given, since it is generally public administrations that are failing to comply with this accessibility, and in the case of communities of owners or private transport would fall within the civil litigation jurisdiction or the complaint mechanisms of the means of transport themselves, if they had to go to the civil jurisdiction in the case of housing and common areas would enter the Law 49/1960, of July 21, on horizontal property, and if not Law 6/2022, of March 31, amending the Consolidated Text of the General Law on the Rights of Persons with Disabilities and their Social Inclusion, approved by Royal Legislative Decree 1/2013, of November 29, to establish and regulate cognitive accessibility and its conditions of requirement and application.

Within the administrative route, it is first necessary to exhaust the appeals of the administration before accessing the administrative contentious route.

It is observed how almost all the legislation in this matter is due to people with disabilities not having an effective separation in relation to the ordinance nor with the specifications of the older people, especially because this way the similarity of older person is made equal to a person with disabilities, and they may have different needs.