

Open-Ended Working Group on Ageing

9th Session, to be held in July, 23-26 2018

Questionnaire on Autonomy and Independence

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1) The Spanish Constitution does not explicitly define the right to autonomy and independence of older persons.

Nevertheless, article 50 entitles older persons the right to economic sufficiency through pensions. Moreover, it establishes that public powers shall promote their wellbeing through a social services system which deals with health, housing, culture and leisure matters.

2) Other rights essential for the enjoyment of the right to autonomy and independence by older persons are social and economic rights aforementioned: health, housing, culture, leisure. All of them belong to the Third Chapter of Title I of the Spanish Constitution ***“Principles of economic and social policy”*** in articles: 43 (health and leisure), 47 (housing), 44 (culture).

Along with that, also the right to Social Security (art.42) and right to defending older persons as consumers (art.51) are affected by the non-enjoyment of the right to autonomy and independence.

3) The main challenge facing older persons in Spain regarding autonomy and independence is the loss of their physical or mental self-determination due illness, accidents and ageing process as a whole.

According to Eurostat studies, in Spain the life expectancy at 65 years is 20.8 years and three out of four people from long term care units are older than 75 years. Moreover, in 2012, 38% of people aged over 65 years were disabled.

4) The “Act 39/2006 on the Promotion of Personal Autonomy and Care for dependent people”, known as the “fourth pillar of the welfare system” was approved to ensure older persons enjoyment of their right to autonomy and independence.

This Dependency Act has been a change in the previous Spanish legal conception of the provision of social services, setting protection to dependence as a subject to the right, that can be claimed to the powers of the State.

5) As for the mechanisms for older persons to seek redress for the denial of autonomy and independence benefits established in the Act, there exist legal appeals to the Administration and subsequently to the Courts.

6) Finally, representatives of civil society are involved in respecting and protecting the right to autonomy and independence of older persons. Associations and federations of older people are members of the State Council of Older Persons which participates in the political decision-making process according to its role as a consultative body within the framework of the Ministry of Health, Social Services and Equality.