



The Right to the Personality of Older Persons and Their Freedom in Relation to the Administration

Vanesa Sánchez Ballesteros¹ 

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Abstract: *New technologies offer a world of possibilities in all areas of citizens' lives, so the Administration, therefore, has not been excluded from their integration. However, the implementation of ICTs poses a great challenge caused by the inexcusable need to provide technological, economic, and training resources (digital skills) that are required for their effective operation. That is why the rights of citizens must remain unscathed before its implementation, overcoming any obstacle that arises and even maintaining the freedom to use or not, and much more so if they are vulnerable citizens, either due to their age or lack of means.*

1. INTRODUCTION

Information and Communication Technologies (ICTs) provide us with a diversity of possibilities in all contexts of our lives (social, health, economic, etc.), opening up a wide range of rights for European citizens in their communications with the Administration since the approval of Directive 2006/123/CE of the European Parliament and of the Council of December 12, 2006², relative to services in the internal market. However, for it to be a reality and an effective right, citizens must have the appropriate technical infrastructure that serves as the basis and support to be able to carry out its use. Likewise, for their use and exploitation to be efficient, we must also take into account the situation of all sectors of the population, especially the most vulnerable, since the prior training that is necessary for the use of these technologies can be a barrier for our elders, especially those without resources or with disabilities. After years of implantation of new technologies, the urgent need to eliminate the digital gap of the elderly is detected, especially, analyzing the needs that derive from the obligatory implantation in some fields of such technological advances and even more, after the Covid-19 pandemic, where most of the administrative procedures have been established digitally, obviating the accessibility obstacles of this highly vulnerable group, undermining their rights and inexorably causing their marginalization.

After the Covid-19 pandemic, access through this means has become general, indirectly forcing all citizens to use it as the only access route. Given this situation, it is proposed from these lines to make an analysis of the implementation of telematic procedures to a global level; study the consequences that occur in the rights of citizens in their relationship with the Administration electronically, and the damages produced by such demands.

¹ Department of Civil, Financial and Tax law, University of Jaén, Spain

² Directive 2006/123/CE of the European Parliament and of the Council of December 12, 2006 on services in the internal market (published in DOUE of December 27).

2. THE INTERNATIONAL EVOLUTION OF THE RIGHT TO FREEDOM OF OLDER PERSONS IN ITS RELATIONSHIP WITH THE ADMINISTRATION

The right to freedom, understood from the literal meaning of the word as an attribute, means independence to do or decide what is deemed convenient and that includes any person without distinction of any social circumstance (age, sex, ideology, etc.) because they are an inalienable condition of the human being; and from the legal point of view, freedom is the faculty or power to act according to their criteria within the framework of the Law³, both from the point of view of wandering and of choice in the exercise of their preferences.

The Universal Declaration of Human Rights (UDHR), adopted by the United Nations General Assembly in Resolution 217 A(III), on December 10, 1948, in Paris, was born with the aim of protecting human rights injured by wars that had been happening, especially as a reaction to the violation of human rights during World War II. A pioneering international instrument in the protection of human rights is formed based on the recognition of human dignity as the basis of the most essential values of the human being such as freedom, justice, and peace, as established in its preamble.

The International Covenant on Civil and Political Rights (ICCPR), approved by the United Nations General Assembly in Resolution 2200 A (XXI) of December 16, 1966, was already configured in its preamble in accordance with the principles of the United Nations Charter, recognizing freedom as the basis for recognizing human dignity. Article 9 generally recognizes this right.

Years later and after a process of democratization of the States, in a schematic way and not to extend ourselves excessively in the field of recognition of freedom, we find ourselves in the European sphere with the Charter of Fundamental Rights of the European Union, approved in the year 2000⁴, where freedom was recognized, already in its preamble, as a general situation and inherent to every person (personality right) and introduced as a value of the Union, inalienable as it is the basis and axis of the rights that make up human dignity, although at first it was considered a declaration of moral principles, over time it was incorporated through successive documents with binding force, thanks to the will of the States.

Likewise, article 41 recognized the right to good administration within the category of fundamental rights⁵. This new recognition of the Charter is postulated as the first of all legal instruments, both national and international, on human rights. Starting from the recognition of both concepts, freedom-good administration, the problem lies in the convergence of actions derived from respect for the freedom of all, especially that of our elders, in the exercise of their rights and the actions of the Administration in good governance⁶ in the achievement of its functions, in an agile and efficient manner, putting its actions at the service of the general interest. Subsequently, with the approval of the Treaty of Lisbon, it maintains in its article 6.1 of the TEU, the

³ Fernández Suarez, J. A. (2018). “El derecho de libertad en Eduardo García Máynez”. *Revista de Posgrado en Derecho de la UNAM. Nueva Época* n° 8, pp. 267-294.

⁴ Charter of Fundamental Rights of the European Union was proclaimed at the Nice European Council on December 7, 2000 jointly by the Council, the European Parliament and the Commission.

⁵ Ferreiro Viñuales, S. (2015). El artículo 41 de la carta de los Derechos Fundamentales de la Unión Europea: una visión crítica. *Estudios de Deusto*, 63(1), pp. 423-435.

⁶ Ortiz Martínez, J. S. (2016): La gobernanza en la cooperación internacional para el desarrollo. Instituto Universitario de Desarrollo y Cooperación (IUDC-UCM). *Documento de Trabajo* n° 38, septiembre 2016, p. 20.

recognition of the Charter, giving it binding legal value, recognizing in the community environment the rights, freedoms, and principles of the text, for which it grants it the same value as to the Treaties.

Consequently, some reference can be observed in defense of the good performance of the Administration: in the Judgment of the Court of Justice of October 18, 1989, in matters of protection of competition in case of administrative procedure, arguing the right of defense of any procedure when it can end in an act harmful to a person, constituting it as a fundamental principle, brewing through the European jurisprudential doctrine the notion of good administration as a generic concept, so that good governance was forged as a standard of behavior required from the Administration⁷.

But the obligation to observe a good Administration of the States in their internal functioning was based on the Charter of Fundamental Rights of the European Union as the first identification of European fundamental rights⁸, as a consequence on the part of the Governments of the Member States, of guarantee of protection of the fundamental rights of citizens, although in legal systems it will not be reflected as such, but as behavior of the Administration that must be observed.

Good governance appears in the European context in the approach to ICTs in their management and communication with citizens. It is therefore that the promotion of electronic administration begins as a community commitment that begins with the Council of Europe, to take advantage of the possibilities offered by new technologies. In the year 2000, at the Lisbon Summit⁹, it was proposed, through the eEurope program¹⁰, to make the EU the strongest power in terms of knowledge through Internet connection.

A year later, the European Commission defined it in its White Paper on European Governance¹¹ (2001), as the set of rules, processes, and behaviors that affect the exercise of power in Europe in terms of responsibility, effectiveness, coherence, and stake¹².

In 2004, the OECD¹³ published a study “Electronic administration: an imperative”, highlighting the kindness of the application of Electronic Government in terms of the savings that electronic

⁷ Ibidem... p. 428-429.

⁸ “...A generic reference to good administration could be observed in the Declaration of the Rights of Man and of the Citizen, adopted by the French Constituent Assembly on August 26, 1789. “society has the right to demand an accounting of its administrative action from every public agent”, establishing it as a rule, not as a right”. Tomás Mallén, B. (2004). El derecho fundamental a una buena Administración. *MAP-INAP, Madrid 2004. P. 179*.

⁹ Portal of the European Union. http://publications.europa.eu/resource/cellar/ade37b54-018f-45a6-bf48-95ff11598b1f.0005.02/DOC_2 (accessed May 5, 2022).

¹⁰ “...eEurope is a political initiative aimed at ensuring that future generations of the European Union take full advantage of the changes that the information society is producing.” Portal of the European Commission. “eEurope, an information society for all, Initiative”. <https://cordis.europa.eu/programme/id/IS-EEUROPE/en> (accessed May 1, 2022).

¹¹ The White Paper on governance, approved by the Commission on July 25, 2001 (published in DOUE on October 12).

¹² Garrido Mayol, V. (2020). El principio de buena administración y la gobernanza en la contratación pública. *Estudios de Deusto: Revista de la Universidad de Deusto*, 68(2), 115-140.

¹³ OECD Portal. The Electronic Administration: an imperative”. https://www.oecd-ilibrary.org/governance/the-e-government-imperative/summary/spanish_9789264101197-sum-es (accessed 25 April 2022).

administration can generate and its effectiveness. In this same year, the Committee of Ministers adopted a recommendation on democratic governance highlighting the notoriety of electronic administration not as a technical issue.

At the Seville Summit, the eEurope 2005¹⁴ Plan was approved with the purpose of advancing its objective of creating an electronic environment. On April 25, 2006, the European Commission launched the Action Plan on Electronic Administration¹⁵, also known as e-Government (as part of i2010) outlining the steps to develop electronic administration, thus initiating the society of EU information with three key objectives: to achieve a single European information space, to strengthen innovation and investment in the field of ICT research and to achieve an information society based on inclusion. In short, this objective was intended to improve public services and the quality of citizens in a coherent and sustainable way, seeking maximum efficiency from new technologies as a determining economic factor.

On December 12, 2006, Directive 2006/123/EC (in the aforementioned introduction) was approved, establishing the obligation of the Member States to facilitate the electronic means necessary for access to procedures related to service and information activities.

In 2014, the OECD¹⁶ published a document with Recommendations for the development of Digital Administration Strategies. The document contained 12 guidelines to be taken into account in the development of Digital Administration Strategies by the countries. Its objective was for administrations to get closer to their citizens and companies by making use of new technologies, widely rooted in society.

And from here a large number of international and community instruments support the use of electronic media as essential for its benefits in terms of the operation of good governance. However, the intended objective, as can be elucidated, is the establishment of a new channel that facilitates the efficiency of the Administration in the exercise of its powers, as a modern public service¹⁷ that helps citizens in their access, but nothing indicates that it should serve as a filter, much less as an obstacle in the exercise of the rights of citizens since its inclusive nature of help in search of the general interest of the citizen is easily deduced.

3. THE INCLUSION OF NEW TECHNOLOGIES IN THE FIELD OF ADMINISTRATION

3.1. Principles, Characteristics, and Objectives of Electronic Government

¹⁴ eEurope Plan: An information society for all. <https://eur-lex.europa.eu/legal-content/ES/TXT/PDF/?uri=CELEX:52002DC0263&from=ES> (accessed 25 April 2022).

¹⁵ PAE, Electronic Administration Portal: Action Plan on Electronic Administration. https://administracionelectronica.gob.es/pae_Home/pae_Estrategias/pae_lineas_ccoperacion/pae_Cooperacion_Internacional/pae_estrategias_de_administracion_electronica/pae_Ambito_Europeo_Planes_accion_administracion_electronica.html (accessed 20 April 2022).

¹⁶ OECD Portal. https://administracionelectronica.gob.es/pae_Home/pae_Actualidad/pae_Noticias/Anio2014/Agosto/Noticia-2014-08-12-Recomendaciones-OCDE-estrategias-Adigital.html (accessed May 12, 2022).

¹⁷ “By administrative activity of public service we understand that the Administration provides benefits to citizens to guarantee the satisfaction of their needs. The essence of public service...is not the exercise of power, but the provision of benefits for what is mainly carried out by the Administration...” Rebollo Puig, M. y Vera Jurado, D. J. (2019). “*Modos y medios de la actividad administrativa*”. *Derecho Administrativo. Tomo III*. Tecnos. pp. 127-133.

We must not forget that to carry out any change in a means of communication or access between citizens and the Administration we must take into account a series of factors that may affect its achievement in some way. Among the factors that we can distinguish that have the greatest impact, first of all, due to its importance, we must highlight the freedom to choose the access channel. The Administration must verify that the channel is adequate and that it guarantees effective two-way communication between the parties, this implies digital updating on both parties, Administration-citizen, either because they have the appropriate technical resources and, above all, because they are competent in terms of its digital capacity so that effective communication can be ensured.

Although the Electronic Government is understood as a new technological system based on information and communication whose fundamental objective is to achieve an agile and safe administration for all and thus reduce the Administration's expenses; It must be verified that the means and channels used do not diminish any fundamental right, including freedom and much more when it comes to older people, with a situation of special vulnerability due to lack of economic or technological resources or lack of digital literacy. It is essential that the Member States take into account when applying their new communication models, that their procedures meet the optimal requirements so that citizens receive them in equal conditions. It is indeed a new and agile tool for a large number of users, but it is also true that it can lead to the violation of some fundamental rights in certain sectors of the population, those with inadequate or even non-existent technological possibilities, generating by this a significant digital divide and dire consequences.

It is indisputable that the use of information and communication technology represents a great advance in the optimization of resources in public management, as well as the development of policies and strategies aimed at the citizen, but it must be observed that the economic and Administration technicians do not correspond to those of all citizens, as it is a heterogeneous subjective element due to diversity of social circumstances. It is necessary for the Administration to foresee the obstacles that arise with the use of ICTs in the automation of procedures and services as the only way of access, and much more, after the Covid-19 health crisis, when their use increases exponentially, generating an important dysfunction in the older group due to not being prepared for the change, since its establishment occurred at great speed as a protection measure against personal contacts to avoid contagion. However, after the passage of confinement and subsequent restrictive measures where telematic procedures were promoted as a priority, the truth is that this situation has been maintained in many procedures as the only means of access to the Administration.

As anticipated in previous lines, the introduction of ICTs in the Administration must take into account a series of basic factors for its implementation. In addition to the channel used, the following must be taken into account: the literacy of citizens in terms of the use of telematic tools, including all social groups, especially the older ones, as they are the most vulnerable; the technological infrastructure possessed by the recipients; established web platforms (secure in terms of data protection) that do not cause mistrust; an intuitive and simple interface that does not generate rejection in its use; standardization of portals as single windows so that all Administrations are connected and do not need different applications, or user registration, just one and that is a tool that generates trust, since in general, from that website, they can carry out all kinds of procedures, thus avoiding establishing a barrier with citizens due to its diversity of applications, the uncertainty of facing the new medium and especially the inclusion of the elderly¹⁸.

¹⁸ Rodríguez, G. (2004). Gobierno electrónico: hacia la modernización y transparencia de la gestión pública.

In short, the characteristics that the Electronic Government must have for its correct implementation and taking into account that its competence is a public service, are:

- Adequate digital receiver and transmitter, so that in this way an effective channel of communication in the exercise of the rights of citizens, of all, is widely possible. This implies that it will be the Administration that must adapt to the level of the users and not the other way around since it is the Administration that is at your service.
- Simple to use, since it must mean an increase in integrated possibilities in the range of sectors to which it will be directed, providing the Administration with standardized, intuitive, clear and easy-to-use interfaces that invite users to use them. It is essential that the constant extensions and modifications of the Administration's website do not imply an obstacle in its access.
- Flexible, not being the only means of communication with the Administration to carry out a specific task, but rather it is established as an agile, simple, comfortable possibility, so that the user can freely choose the most appropriate means, both face-to-face and telematic.
- Insurance, through its use the Administration must guarantee the protection of citizens in all contexts, data, economic, etc.
- Free or that a discount be established when appropriate (public prices, fees...), as this will encourage its use.
- Single window, with the intercommunication of the different Administrations in a general way and the user not having to constantly install specific applications that require a variety of technical requirements, passwords, etc.

The fulfillment of these characteristics referred to in the use of ICTs through the so-called Electronic Government, aims to establish good governance suitable for all levels of society, promoting a cultural and technological change related to the times, adapting the Administration to the digital transformation demanded by society. The establishment of new means of communication and access to the Administration through new technologies must be inclusive for all citizens, especially taking into account the most vulnerable, being aware of the technological reality of all, so that progress in this new innovative access process really meets the intended objective and is covered by the conviction of being at the service of citizens by improving the quality of their lives and their protection.

3.2. Advantages and Disadvantages in the Exercise of the Rights of the Elderly Through ICTs

The right to electronically access Public Administration can give rise to innumerable consequences, both positive and negative.

- In the first place, in terms of advantages, it must be taken into account that new technologies favor:
 - Agility, assuming time savings for both the citizen and the Administration. Its availability is such that it can be found on the platforms 24 hours a day, 365 days a year, and without the need to travel.
 - Efficiency is another advantage provided by the use of ICTs, since the saving of time and intermediaries in access (register request manually, refer to the competent person to resolve...) as well as material resources, will favor the resolution of the social demands more quickly and with the use of fewer means.

- Availability of access anywhere and at any time, since citizens can communicate with the Administration from anywhere in the world if they have the appropriate technological resources.
 - Increased citizen participation and information, since, through a small gesture, a simple visit to the website, you will have at your disposal all the necessary information to carry out any action, contributing to increasing your possibility of participation.
 - Ecologically sustainable, because through ICTs, the use of paper will decrease considerably, as well as the need for the user to travel to the physical place of the Administration.
 - Safe, with the protection of telematic channels supported by new technologies, through the contracting of protected computer services and adjusted to the personal data protection regulations^{19,20}.
- Regarding the drawbacks in the use of ICTs by citizens with the Administration, we can highlight the following:
- Heterogeneity of technological resources by citizens, since it is verifiable that citizens do not manage or possess the same technological structural means, which can produce, in case of making digital access exclusive, marginalization, lack of protection and violation of rights for those who don't have them.
 - Inequality in the knowledge of the use of ICTs. Digital literacy for the use of ICTs is fundamental; therefore, if there are certain social groups that due to age or disability do not have it, it may be that electronic implantation represents an access barrier and, hence, a detriment in terms of opportunities and violation of their rights.
 - High cost: sometimes we can find ourselves with a shortage of human and material resources for the adequate adaptability of the necessary technological instruments, both from the Administration (some Local Entities), and from the citizen.
 - Exposure of personal data: privacy is essential to be respected in the use of electronic media, because when we talk about personal files that are used on the web and given the countless cyberattacks that occur even in high political spheres, it can produce insecurity.
 - Complexity: sometimes we can find cumbersome websites, not very intuitive in terms of their use, due to the specificity of standardized procedures.

Consequently, given the different points of view, both positive and negative, in the use of ICTs in Administration, we must conclude that the obstacles can be dealt with through the simple exercise of respect for freedom in the use or not of electronic processes since such implementation as a modernization and updating system cannot mean any reduction in the rights of the interested parties, but must be oriented, not to facilitate the work of the Administration, but to be one more channel of access due to its innumerable advantages (immediacy and efficiency), though not exclusive, since there may be citizens who do not have the new technologies or sufficient training for their use. It is inexcusable to contemplate different means of access to the Administration, respecting the right of all to choose their means of access. It is urgent that the Administration observe the time necessary for its effective implementation exclusively, since without a

¹⁹ Organic Law of 15/1999, of December 13, Protection of personal data (published in BOE of December 14) this Law adapted our system to the provisions of Directive 95/46/CE of the European Parliament and of the Council of October 24, 1995, regarding the protection of natural persons with regard to the processing of personal data and the free circulation of these data, repealing in turn the until then in force Organic Law 5/1992, of October 29, Regulation of the automated processing of personal data.

²⁰ Organic Law 3/2018, of December 5, on the Protection of Personal Data and guarantee of digital rights (published in BOE of December 6).

doubt, over the years, the generations will be equipped with the appropriate digital skills for its effective operation with the Administration, for which reason they must be patient and wait for the optimal factors of modernization by society to be met.

3.3. The Digital Divide in the Elderly

As a result of the previous points, it is not difficult to conclude that after the Covid-19 pandemic and the urgent implementation of telematic means as a means of continuing with the productive means and administrative services through Electronic Government, it has been observed that the imposition of telematic processes, especially in the elderly and disabled population, has led to devastating consequences, above all, due to the lack of digital competence and technological resources.

We understand the digital divide²¹ in general, as inequality in access to the Internet and ICTs. This circumstance, according to some sources, is caused by the heterogeneity of the implementation of telematic resources derived from social imbalances at a global level. It is estimated that it affects 52% of women and 42% of men in the world²². This bias does not occur continuously, as it will also depend on the level of the world's regions, so according to the Word Stats portal as of May 2020, the African continent would have a much lower level of connection, around 39.3% compared to 87.2% of Europeans and 94.6% of North Americans.

In short, what can be seen is the undoubted existence of a profound difference at the global level. These data show us the great technological difference between some countries and others so that digital literacy is still in a process of consolidation through the promotion of progress in search of a balance of the States in the different areas of society, education in terms of its technological training, economic in terms of the necessary structural resources and social in terms of promoting the integration of all sectors of the population in an equal manner.

But if we go even deeper into the digital gap and establish the comparison in the European space by reason of age, this gap also widens, with older people being the most affected in terms of their possibilities of access.

According to a study on the digital divide in aging in Spain, 73.3% of older people between 65 and 74 years of age used the Internet in 2021, increasing the percentage exponentially far from the 5.1% in 2006, according to the National Institute of Statistics (INE) in the "Survey on Equipment and Use of Information and Communication Technologies in Households". However, in the last three years, caused by the health pandemic, it has grown faster, obviously due to the needs that have arisen, leading to a considerable reduction in the digital divide of the elderly²³. If we look carefully, we see that it is clear that they have ignored those over 74 years of age as an age range, because if this group is excluded, the percentages would not be so encouraging.

²¹ In 2001, the OECD defined the digital divide as the "divide between individuals, households, economic and geographic areas with different socioeconomic levels in relation to both their opportunities for access to ICTs and the use of the Internet for a wide variety of activities." Visible Portal, "6 key points on the digital divide and the right to the Internet", <https://www.visibles.org/es/actualidad/democracia-y-participacion/6-puntos-clave-sobre-brecha-digital-y-Derecho-internet> (accessed May 1, 2022).

²² Iberdrola Portal, <https://www.iberdrola.com/compromiso-social/que-es-brecha-digital> (accessed May 15, 2022).

²³ Web aging portal, <https://agingenred.es/la-brecha-digital-por-edad-los-mayores-continuan-reduciendola/> (accessed May 2, 2022).

ing. We must dwell even more on these data that are offered to us and relate them to life expectancy at birth in Spain, being 85.4 years for women, compared to 80 years for men for the year 2020, according to the INE²⁴, as well as a similar equivalence in the community environment, although not as high as in Spain. If we establish an average of 83 years of life expectancy at birth in Spain, a figure also approximate in the European environment, we can see that the calculations observed in relation to the digital divide reach up to 74 years, leaving 9 years on average without determining in terms of their access to digital skills, glimpsing at its obviousness that people over 75 years of age have less access to ICTs or lack them, so if they had been taken into account, it would mean a lower percentage in the survey cited in the access of the elderly in the use of technologies.

According to the INE, in relation to the use of the Internet during the last three months by age groups, it clarified the issue a little more, since as of 2019 it was detected that 90% of young people between 16 and 64 used the Internet in the last three months, 63% of people between 65 and 74 years old and finally, 23% of people over 75 years old, which implies the obvious existence of the age gap. We can still delve deeper into the gap if we compare it by gender. According to the same source, regarding the gender gap in relation to the survey of “at least some computer knowledge”, we find for 2021 in age ranges under 65 that there is no such gap, but when we refer to the same does not occur among older people, since in men a percentage of 45.8% is observed, compared to 33.2% in women within the age range of 65 to 74 years²⁵. What clearly determines the double gap, and, therefore, if we exceed 74 years, we can clearly verify that, at an older age, it is very likely that such a gender gap will be more pronounced.

4. COMPARATIVE LAW IN THE USE OF ICTS AND ELECTRONIC GOVERNMENT

Globalization is an indisputable phenomenon in today’s world, in which ICTs have played a fundamental role in achieving it. However, not all countries are in the same process of modernization and development, as we have seen in previous points, so their global impact will be at a different level, depending on a multitude of elements, such as their economy, index of social and technological development and, evidently, political and cultural factors that favor or not the change.

In the European sphere, the Commission prepared in 2020 a document entitled the “Digital Economy and Society Index (DESI)” in which the general performance in the European environment in relation to its digital competitiveness is studied, giving quite encouraging results, especially caused by the Covid-19 pandemic, with the accelerated implementation of the use of digital technologies immediately.

Among the most digitized countries according to the DESI report are Finland, Sweden, Denmark, and the Netherlands, also adding that they are world leaders. It is followed by Malta, Ireland, and Estonia, with Ireland being the country that has had the most successful digital transformation in the last five years, followed by the Netherlands, Malta, and Spain, obtaining a performance above the European average. The study made a series of relevant observations in

²⁴ Portal of the National Institute of Statistics. Life expectancy in Spain. https://www.ine.es/ss/Satellite?c=INESeccion_C&cid=1259926380048&p=1254735110672&pagename=ProductosYServicios%2FPYSLayout (accessed May 10, 2022).

²⁵ Portal National Institute of Statistics. Percentage of adults (16 to 74 years old) who in the last 12 months have carried out tasks related to computer skills by sex, age group and type of task. <https://www.ine.es/jaxiT3/Tabla.htm?t=46292> (accessed May 5, 2022).

relation to the human factor and its digital skills, highlighting this circumstance as essential to be able to advance in terms of digital skills because if these are adequate, they will inexcusably favor the existence of an efficient communication system, and information of citizens with the Administration and in general, with the digital transformation of society.

In the DESI report, the digital skills of the EU population were analyzed, giving the following results: 42% of the European population lacks the minimum digital skills. In relation to the use of digital public services in the field of electronic administration and online health, 67% on average use them in the European space, the most technological countries in terms of their use with the Administration are Estonia, Spain, Denmark, Finland, and Latvia.

Finland is the first country in the world in the implementation of ICTs, both in use and in application, according to the “World Report on Information Technology” published by the World Economic Forum, in association with the development program of the World Bank (InfoDev) and the INSEAD business administration school, through an evaluation of 82 countries. The report produced an index of adequate network readiness (NRI). This index revealed that, due to the inadequate dissemination of ICTs, the US fell to the second position, unlike Finland, which climbed to the first position. According to the report, the United Kingdom would occupy the seventh position, Denmark the eighth, and very close would be Germany with the tenth position and the Netherlands with the eleventh. Countries such as France, in 19th place, Spain in 25th and Italy in 26th, were not far behind.

However, it must be taken into account that one thing is the technological level of a country and another is the implementation of ICTs in the Electronic Government since there are considerable differences between some States and others. According to a UN study on “the electronic government of the United Nations” published on August 6, 2020, Estonia is among the three most advanced countries in this regard. Out of 193 UN Member States, Estonia together with Denmark and the Republic of Korea led all countries with the most “Electronic Government Development Index”²⁶, with Estonia ranking first in the global e-participation index. According to this study, the citizens of this country do practically everything online, except getting married, divorcing, and buying and selling real estate. Such is its digital resilience, it also adds, that it has committed to reducing the digital divide in other countries through an online help “e-Estonia Briefing Center” providing solutions to more than 130 countries, including Japan and the US²⁷.

The countries that lead the ranking according to the “Electronic Participation Index” worldwide, are Estonia first, as has already been said, then the Republic of Korea, the USA, Japan, New Zealand, Austria, Singapore and the United Kingdom. This study also adds that this situation has been a direct consequence of the COVID-19 pandemic, which, due to its urgency at the time of confinement and paralyzing the country more lightly, innovative initiatives were used in all areas, from economy with digital commerce, to the Government, with the introduction of the digitization of the public sector. However, this study once again focuses on the lack of digital access for many citizens, denouncing the digital gap, in general, from what can be deduced, that it will be even more pronounced in the most vulnerable sector of the population, the elderly.

²⁶ It constitutes a classification instrument in terms of digital government, which captures the scope and quality of online services, the state of the telecommunications infrastructure and the existing human capacity. <https://publicadministration.un.org/en/Research/UN-e-Government-Surveys> (accessed May 29, 2022).

²⁷ UN website. <https://publicadministration.un.org/Portals/1/E-Government%20Survey%202020%20Press%20Releases.pdf> (accessed May 29, 2022).

At a global level, most countries follow digital government strategies with innovative initiatives ranging from the economy with digital commerce, to its implementation in the Government through the use of open data, striving to mitigate the obstacles to digitization on a large scale in public sector functions. However, many citizens still do not have access to online services, according to the applied survey. “Digital transformation is now a critical part of the national sustainable development of many countries. And the accelerated pace of digital transformation during COVID-19 is a positive side”, the Undersecretary General for Economic and Social Affairs (Mr. Liu Zhenmin)²⁸ expressly highlighted, also highlighting the problems found in the study on the “Electronic Government Survey 2020”: the absence of benefits, the existence of barriers due to lack of understanding of the data, limited resources, concerns with the quality, security and privacy of data, including finally the requirement of a long-term approach.

In short, despite the efforts to integrate ICTs in Electronic Government worldwide, depending on the country depending on its development, dysfunctions among citizens are detected due to a multitude of factors, especially due to the lack of both technological and technological resources, such as those derived from the digital competence of citizens.

5. CONCLUSION

To conclude, in this proposed work regarding the detection of the rights of the person of legal age in access to the procedures of the Administration through the Electronic Government, we can say that, despite the existence of innumerable instruments to promote the use of ICTs to achieve efficient communication and information for citizens, in the case of older people the existence of a marked digital divide has been detected and even more so if we delve into gender.

The new technologies introduced in the information and communication processes despite being a reality that promotes a large number of advantages for the citizens of the world, it should be noted that their exclusive use can determine the violation of the rights of citizens, especially of the elderly or disabled due to the lack of adaptation to the environment derived from the scarcity of technological, economic or even social resources.

After the detection of the obstacles that are determined in this study as a consequence of the study of the legal and technological situation that we live in, as a result of its evolution and promotion for years, it is observed that the global society is not yet prepared for digital communication as the only system of information, communication, and access to the Administration. Therefore, it is inexcusable to keep intact the right to freedom, as an inherent right of the inalienable person, to respect the decision to choose the way to exercise their right of access. That the Electronic Government be one more opportunity to improve the service of the citizen and not the other way around, because the Administration finds it more comfortable, economical and agile, but as one more possibility for those who consider it so, whether they are older citizens or not, thus respecting the integral freedom of the individual in the full achievement of their integration in all areas of community life.

²⁸ UN website. Welcome Remarks and Substantive Key Messages Launch of the 2020 United Nations E-Government Survey <https://www.un.org/development/desa/statements/mr-liu/2020/07/remarks-launch-2020-egov-survey.html> (accessed May 29, 2022).

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