

Guiding Questions for Focus Area: Access to Justice

National legal framework

1. How is the access to justice by older persons guaranteed under the national legal and policy framework? What judicial and non-judicial mechanisms are in place for all older persons to complain and seek redress for denial of their rights?

The Argentine Constitution establishes access to justice as a right by providing, in Article 16, that all citizens are equal before the law, while in Article 18 it establishes the right to defence at trial.

The Public Defender's Office is an institution that defends and protects human rights guaranteeing access to justice and comprehensive legal assistance, both in individual and collective cases. It promotes all measures aimed at the protection and defence of the fundamental rights of individuals, especially those in vulnerable situations.

The Inter-American Convention on Protecting the Human Rights of Older Persons, ratified by Argentina by Law No. 27360, provides that "Older persons have the right to a hearing, with due guarantees and within a reasonable time, by a competent, independent, and impartial tribunal, previously established by law, in the substantiation of any accusation of a criminal nature made against them or for the determination of their rights and obligations of a civil, labor, fiscal, or any other nature". It also provides that "State Parties shall ensure effective access to justice for older persons on an equal basis with others, including through the provision of procedural accommodations in all legal and administrative proceedings at any stage".

Availability

2. What steps have been taken to ensure the availability of judicial and non-judicial mechanisms for older persons in urban, rural and remote areas in your country? Are there alternative dispute settlement mechanisms available?

Within the framework of the Argentine Ministry of Justice and Human Rights, the Centres for Access to Justice (CAJ) have been created. These offices are located all over the country and provide primary and comprehensive legal assistance services to vulnerable populations. Each Centre is made up of an interdisciplinary team of lawyers, psychologists, social workers, community mediators and administrative staff who have been trained to provide comprehensive assistance to meet the legal needs of the community.

In coordination with the CAJ, the General Directorate for Access to Justice (ATAJO) was created (by Resolution No. 2636/15) in order to continue the work of the Programme for Community Access to Justice (Resolution PGN No. 1316/14), whose purpose is to facilitate access to justice for individuals and groups in vulnerable conditions and their participation in the justice administration system.

Its main purpose is to implement the necessary measures to favour -within the scope of its specific competence- an approach between the Public Prosecutor's Office and underprivileged community groups, thus guaranteeing equal participation in the justice system.

In particular, one of the specific objectives set in the resolution that created the Programme for Community Access to Justice is to sensitize the channels of entry into the Public Prosecutor's Office so as to allow for effective access for disadvantaged groups, such as *older persons*.

Accessibility

3. What steps have been taken to ensure that all justice systems (judicial and non-judicial) are secure, affordable and physically accessible for older persons and adapted to their needs?

Steps have been taken within the organizations specified below (and their respective programmes and projects).

4. What are the existing provisions to guarantee legal assistance for older persons?

The existing provisions that guarantee legal assistance for older persons in Argentina have been established by the organizations falling within the scope of the Judiciary and their respective specific line structures.

5. What are the specific challenges encountered by older persons in accessing justice and remedy in your country?

In accessing justice, older persons encounter challenges in terms of geography, economy, attitudes, technology, lack of information, among others.

Older persons, especially those living in rural areas or indigenous communities, encounter geographic obstacles when they are far away from judicial jurisdictions. This situation becomes even more serious where older persons have some kind of disability.

Other challenges arise due to the lack of information on their rights and on how to exercise and defend them. Also the lack of training of justice system operators in the proper treatment of vulnerable groups, such as older persons, is detrimental to their right of access to justice.

6. What good practices are available in terms of ensuring equal and effective access to justice and remedy for older persons?

Within the purview of the Argentine Executive, there is the "The Government in Your Neighbourhood" Programme, designed for all citizens and older persons to be able to easily receive the benefits and advice provided by different organizations working in the field.

Within the purview of the Judiciary, there is the Public Prosecutor's Office, an agency that is autonomous and independent from the branches of Government. It is a bicephalic organization with two autonomous and mutually independent structures: the Public Defender's Office -PDO-, whose highest authority is the Argentine Public Defender, and the Public Prosecutor's Office -PPO-, headed by the Argentine Attorney General.

The PDO is an institution that defends and protects human rights guaranteeing access to justice and comprehensive legal assistance, both in individual and collective cases, in accordance with the principles, functions and provisions contained in Law No. 27149. It promotes all measures aimed at the protection and defence of the fundamental rights of individuals, especially those in vulnerable situations.

Within this framework, since 2012 the PDO has implemented a Programme on Health, Disability and Older Persons, which addresses these issues in order to strengthen the

capacities of public defenders in defending the rights of the groups concerned, as well as to promote public policies aimed at raising awareness and protecting the human rights involved. In this regard, the general goal of the programme is the promotion of activities aimed at the defence and protection of human rights and the reduction of obstacles to access to justice for individuals with disabilities and older persons, in order to achieve material equality in the exercise of their fundamental rights.

Among the activities that the PDO may perform are the design of strategies and projects of cooperation and coordination in order to offer a comprehensive range of services that address the problems derived from the violation of the rights of individuals with disabilities and older persons and from the violation of the right to health.

In turn, the PPO comprises the Prosecution Unit for Investigation into crimes committed within the scope of the National Institute of Social Services for Retirees and Pensioners, UFIPAMI. Another Prosecution Unit for Investigation concerning older persons is UFISES, which deals with Social Security Crimes. It is a specialized unit in charge of investigating into crimes related to the large universe of social security.

Equality and non-discrimination

7. What are the provisions adopted to ensure effective access to justice for older persons on an equal basis with others, including age-appropriate procedures in all administrative and legal proceedings?

The various Argentine judicial system organizations are taking measures aimed at strengthening the protection of the rights of older persons and their access to justice on an equal footing in order to comply with the provisions of the Inter-American Convention on Protecting the Human Rights of Older Persons.

8. Please specify existing public policies and awareness-raising and capacity building programmes established for all justice system personnel to address the negative impacts of ageism and age discrimination in justice system.

Argentine justice system institutions, the Public Defender's Office, the Ministry of Justice and the Public Prosecutor's Office of the City of Buenos Aires have prepared the "Protocol for Access to Justice for Persons with Disabilities: Proposals for Proper Treatment". Considering that a high percentage of individuals with disabilities are older persons, this instrument is worth mentioning as it contains proposals and recommendations on the proper treatment that persons with disabilities must receive and is intended for providers of justice services. Within this framework, awareness-raising and training workshops were organized.

Also, different seminars on "Access to justice for older persons" took place, which were organized by various competent judicial institutions.

Accountability

9. How do you ensure justice systems function in accordance with the principles of independence and impartiality? Please specify if there is any oversight mechanism in place to address any discrimination against older persons committed by justice system professionals.

Art. 117 of the Argentine Constitution and Art. 1 of the Organic Law of the Judiciary enshrine the independence of judges. Among the powers of the Judicial Council is that of issuing

regulations concerning judicial organization and any other regulations that may be necessary to ensure the independence of judges and the effective provision of justice services.

Ministry of Justice and Human Rights: Justice 2020.

Within the purview of the Argentine Executive, there is the "The Government in Your Neighbourhood" Programme, designed for all citizens and older persons to be able to easily receive the benefits and advice provided by different organizations working in the field (the Argentine Ministry of Health and Social Development, INSSJP-PAMI).