



## GUIDING QUESTIONS FOR FOCUS AREA:

### RIGHT TO WORK AND ACCESS TO THE LABOUR MARKET

#### National Legal and Policy Framework

1. What are the legal provisions and policy frameworks in your country that recognize the right to work and access to the labour market by older persons?

*In Chile does not exist special laws and policy frameworks for the right to work and to access the labour market for the elderly.*

2. What are the challenges faced by older persons for the realization of their right to work and access to the labour market in your country?

*In Chile, the main challenges faced by older persons for the realization of their right to work and to access to the labour market are:*

- a. Match the minimum salary for people over 65 years old, to the minimum salary for people between 18 and 64 years old.*
- b. Create a special employment contract for the elderly, with emphasis on job flexibility.*
- c. Overcome negative stereotypes of old age in labour matters.*

3. What data, statistics and research are available regarding older person engaged and informal work and economic value?

*According to the INE (National Statistics Institute of Chile), people over 60 for woman and 65 for men had a rate of 43.5% in the informal employment market, on 2017.*

#### Availability, Accessibility, Acceptability and Quality

4. What steps have been taken to ensure the access of older persons to the labour market, including through physical accessibility, access to information about employment opportunities, training and the provision of appropriate workplace accommodations?

*At this time in Chile, the elderly work rights are a pending challenge and represent a gap according to the Inter-American Convention on protecting the human rights of older persons.*

5. What steps have been taken to ensure the availability of specialized services to assist and support older persons to identify and find employment?

*The main advances have been in the training for elderly people towards skills required in occupations in services for the community and companies in the private sector.*

*Sign collaboration agreements between SENAMA (National Agency for Older Persons) and SENCE (National Agency for Training and Employment) to introduce inclusive labour policies for elderly people on private companies.*

6. What good practices are available in terms of ensuring the older persons' enjoyment of their right to work and their access to the labour market?  
*On August 13, 2019, SENAMA (National Agency for Older Persons) and the CPC (Production and Commerce Confederation) signed an agreement to encourage good practices on labour inclusion. An example of this is the opening of special places/quotas to hire seniors.*
7. What protections are available to ensure older persons enjoy just and favourable conditions of work, including fair wages and equal remuneration for work of equal value safe working conditions, both in the formal and informal sector?  
*Unfortunately, these kind of special protection for elderly people at work does not exist in Chile yet.*

### **Equality and non-discrimination**

8. In your country, is age one of the prohibited grounds for discrimination in relation to work and access to the labour market, including in older age?  
*No. The Labor Law (Art. 2 of Law N°21112) in Chile provides that people under 18 years of age and over 65 years old receive monthly as a minimum income 27% less than people between 18 and 64 years.*

### **Remedies and Redress**

9. What mechanisms are necessary, or already in place, for older persons to lodge complaints and seek redress for denial of their right to work and access to the labour market?  
*The Labor Inspection is an institution that serves to restore the rights of all workers in Chile. However, the Inter-American Convention is a pending matter for the elderly workers.*

## **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?  
*In Chile works the Ordinary Justice. Also, in SENAMA (National Agency for Older Persons) exists the Good Treatment and Human Rights of the Elderly Department. The purpose of this department is the legal and social advice for the elderly through the Senior Defender, a specialized lawyer in elderly rights.*

#### **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?

*The Ordinary Justice and the Family Justice works in all places of Chile. The Family Justice considers friendly settlement mechanisms, such as the “judicial mediation”.*

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?  
*The first step to ensure justice focalized on the elderly was the installation of the Senior Defender in several regions of the country. Anyway, at this time in Chile, the right to access justice for the elderly are a pending challenge and represents a gap in respect of the Inter-American Convention on Protecting the human rights of older persons.*
4. What are the existing provisions to guarantee legal assistance for older persons?  
*The Judicial Assistance Corporation depends of the Ministry of Justice, and this organization provides free legal assistance to poor elderly people. The Corporation works in all towns in the country.*
5. What are the specific challenges encountered by older older persons in accessing justice and remedy for older persons?  
*The specific challenges for elderly people to access justice in Chile are:*
  - a. *To establish rules for precautionary measures of economic order to favor the elderly.*
  - b. *To establish rules on social neglect in favor of the elderly.*
6. What good practices are available in terms of ensuring equal and effective access to justice and remedy for older persons?  
*SENAMA (National Agency for Older Persons) has created the figure of “Senior’s Defender”. The purpose of this Defender, is giving legal orientation for the elderly.*

### **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?  
*At this time in Chile, this point is a pending challenge and represents a gap in termns 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 programs established for all justice system personnel to address the negative impacts of ageism and age discrimination in justice system?  
*The Positive Aging Policy of Chile 2012-2025, promotes a cultural change in relation to the social image of old age. This should impact society and its structures, including the judicial system.*

### **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?  
*At this time in Chile, this point is a pending challenge and represents a gap in respect of the Inter-American Convention on Protecting the human rights of older persons.*