

Right to Work and Access to the Labour Market

Brazil has established the Elderly Statute under the Law 10.741, in October 1st, 2003, to regulate the guaranteed rights to persons aged 60 (sixty) and above (art. 1st).

According to art. 3rd of this law, it is the obligation of the family, the community, society and the Government to ensure to the elderly, with absolute priority, the realization of their fundamental rights, including the right to work.

About professionalization and work, the art. 26th of the Elderly Statute assures the elderly the right to exercise of a professional activity, respecting their physical, intellectual and psychic conditions. The same law foresees the creation of specialized professionalization programs and stimulates the admission of the elderly to the Labor Market.

Regarding the access to the labor market, with the reduction of fertility rates and a longer life expectancy of the population, the participation of the elderly in the labor market has increased.

According to data from the Secretariat of the Labor and Economy Ministry of Brazil available in the Annual Report on Social Information (*Relação Anual de Informações Sociais - RAIS*), the number of older people in the labor market grew by 43% between 2013 and 2017. However, the number of older people looking for a job also increased, as well as the unemployment rate in this segment. Unemployment among the elderly jumped from 18.5% in 2013 to 40.3% in 2018, according to data from the National Household Sample Survey (*Pesquisa Nacional por Amostra de Domicílios - PNAD*).

Since 2014, Brazil has been facing a severe economic recession that, allied to the responses of the political regime, has resulted in the reduction of the Brazilian economy, unemployment, inequality increased and reduction of public investment in social policies.

The Elderly Statute prohibits discrimination and the setting of a maximum age limit for the admission of the elderly to any work or job, including government positions, except in cases where the nature of the position requires it (art. 27th).

In addition, it constitutes a crime punishable by imprisonment from 6 to 12 months and a fine (art. 100th) if any company prevents someone from access to any government position because of their age or deny employment or work for the same reason.

So far, the older persons can rely on the Brazilian Justice system to lodge complaints and fight for their right to work and have access to the Labor Market. However, the system is quite slow and can take many years to ensure a conclusive result.

Social Protection and Social Security (including social protection floors)

In Brazil, the Federal Constitution of 1988 establishes that social security comprises an integrated set of initiatives of the Government and society, designed to ensure the rights related to health, social security and social assistance (art. 194) to the Brazilian population.

Comprehensive health care for the elderly is ensured by the Elderly Statute, through the Unified Health System (*Sistema Universal de Saúde - SUS*), guaranteeing universal and equal access to them, together with continuous and articulated actions and services, for prevention, promotion, protection, and health recovery, including special attention to diseases that preferentially affect the older persons (art. 15).

In the context of social security, the Elderly Statute reiterates the granting of retirement and pension benefits, under the terms of current legislation (art. 29).

The Social Protection, within the scope of social assistance, will be provided, in an articulated manner, as per the principles and guidelines provided for in the Organic Law of Social Assistance, the National Policy for the Elderly, the Unified Health System and other pertinent rules (art. 33).

In addition, it is guaranteed, under the Organic Law of Social Assistance (*Lei Orgânica da Assistência Social- LOAS*) (art. 34), the monthly benefit of 1 (one) minimum wage to the elderly who do not have the means to support themselves or to have it provided by their family.

Although the unemployment rate of the elderly is lower than that of young people, both are affected by the high unemployment rate and the increase in informal work observed today in Brazil.

The fact is that according to the Ministry of Health of Brazil, the elderly represents 14.3% of Brazilians, or 29.3 million people. And by 2030, the number is expected to outnumber children and adolescents from 0 to 14 years.

In seven decades, the average life span of Brazilians has increased by 30 years, from 45.4 years in 1940 to 75.4 years in 2015 and with the various programs aimed at this group, life expectancy tends to increase even more.

This data is quite worrying, since this age group did not plan a health finance situation at this phase of life. And, despite of the elderly statute contains articles that safeguard the working age, this is not respected in the job market in the real life.

Brazil does have public policies aimed at the elderly but is not practiced and this gap increases the number of older persons in public shelters since they cannot support themselves financially. Moreover, the amount they received for retirement pension from the government, most likely pays neither the needed medicines and nor the cost of living.