

## 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?

Accessibility of justice is guaranteed by Articles 47-51 of the Constitution of the Russian Federation (<http://xn----7sbbaj7auwnffhk.xn--p1ai/article/4861>). According to the Constitution of the Russian Federation, justice in the Russian Federation is carried out only by the court (<http://www.ksrf.ru/ru/Info/Maintenance/Informationks/Pages/Aspects.aspx>); Judicial mechanisms of Russia: federal courts, constitutional courts, magistrates (<https://cyberleninka.ru/article/n/problemy-sudebnoy-zaschity-konstitutsionnyh-prav-i-svobod-grazhdan-v-rossii>).

Pre-trial mechanisms: Ombudsman's Institute, Presidential Human Rights Council, appeals of citizens to state bodies, to local authorities governed by the federal law "On the Procedure for Considering Appeals of Citizens of the Russian Federation" (2006)

### 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?

There are federal constitutional laws "On the Judicial System of the Russian Federation", 1996; "About the Constitutional Court", 1994 ([http://www.consultant.ru/document/cons\\_doc\\_LAW\\_4172/](http://www.consultant.ru/document/cons_doc_LAW_4172/)); "On the Commissioner for Human Rights in the Russian Federation", 1997; "On the prosecutor's office in the Russian Federation", 1992; "On Federal Administrative Courts", 2007 (Federal Law "On Free Legal Aid" (2011) and under this law the creation of a legal aid bureau for free legal aid (<https://cyberleninka.ru/article/n/problemy-sudebnoy-zaschity-konstitutsionnyh-prav-i-svobod-grazhdan-v-rossii>). In one of the regions of the country (2014, as part of the promotion of the Law on Free Legal Aid), models of legal education of older people were created, this included a series of lectures for the elderly in social centers (<https://cyberleninka.ru/article/n/sostoyanie-i-problemy-okazaniya-besplatnoy-yuridicheskoy-pomoschi-naseleniyu>);

Recently, Russia also has a mediation procedure, an arbitration court (arbitration), conciliation procedures, labor dispute commissions, an ombudsman, mediation, a claim procedure, and pre-trial settlement of tax disputes. However, only the arbitration court in Russia has a thorough legal regulation (<https://moluch.ru/archive/267/61746/>).

### 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? 4. What are the existing provisions to guarantee legal assistance for older persons? 5. What are specific challenges encountered by older persons in accessing justice and remedy in your country? 6. What good practices are available in terms of ensuring equal and effective access to justice and remedy for older persons?

At the national level, there are a state program of the Russian Federation "Accessible environment" for 2011-2020, Law No. 210, Federal Law of November 24, 1995 No. 181 "On Social Protection of Persons with Disabilities in the Russian Federation", Federal Law "Technical

Regulations on Fire Safety Requirements”, Federal Law “Technical Regulations on Safety buildings and structures. ” (<https://rosmintrud.ru/ministry/programms/3/0>; <http://mineco-nn.ru/metodicheskoe-posobie-dlya-obucheniya-instrukirovaniya-sotrudnikov-uchrezhdenij-mse-i-drugikh-organizacij-po-voprosam-obespecheniya-dostupnosti-dlya-invalidov-uslug-i-obektov-na-kotorykh-oni-predostavlyayutsya-okazaniya-pri-etom-neobkhodimoj/>). In the regions of the country, there are local programs on accessible environments for vulnerable categories of the population, focused on the accessibility of state institutions for the elderly and disabled (<http://docs.cntd.ru/document/561409055>). Ensuring the accessibility of court buildings for people with disabilities and other categories of people with limited mobility (according to federal law of 1998) does not separate the category of elderly people (<http://www.cdep.ru/index.php?id=165>); the code of the Ministry of Regional Development regarding the accessibility of social buildings (2014) also does not distinguish among the elderly (<http://www.normacs.ru/Doclist/doc/10991.html>).

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

There is a federal law “On free legal aid in the Russian Federation” (2011), who does not mention the elderly but claims “8) equal access of citizens to receive free legal aid and non-discrimination of citizens in its provision” (<https://rg.ru/2011/11/23/yurpomosh-dok.html>). According to the law, in the regions of the country there are systems of free legal aid (legal aid bureau) and non-state legal aid (legal clinics) ([http://www.social.saratov.gov.ru/tematicheskie\\_sajty/besplatnaja\\_juridicheskaja\\_pomoshh/](http://www.social.saratov.gov.ru/tematicheskie_sajty/besplatnaja_juridicheskaja_pomoshh/)).

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

According to experts, it is the elderly who are the population group subject to violations of rights, pensioners have low levels of legal knowledge and legal culture; due to their age and state of health, older people become victims of fraud (including theft of housing and money), do not have sufficient information about their rights and obligations, do not have sufficient ability to protect their rights and receive sufficient information (due to the lack of relatives or other close people, sufficient money), they do not know who and how can help them (<http://www.pravosoznanie.org/33043>).

The establishment of a legal aid bureau for free legal aid is not required by law, free legal assistance can only be received by elderly disabled people of 1-2 groups (<https://cyberleninka.ru/article/n/problemy-sudebnoy-zaschity-konstitutsionnyh-prav-i-svobod-grazhdan-v-rossii>); only 36% of people in Russia 55+ use the Internet, so for more than half of older Russians information resources in the field of law and new opportunities for electronic services are not available ([http://www.tadviser.ru/index.php/%D0%A1%D1%82%D0%B0%D1%82%D1%8C%D1%8F:%D0%98%D0%BD%D1%82%D0%B5%D1%80%D0%BD%D0%B5%D1%82-%D0%B4%D0%BE%D1%81%D1%82%D1%83%D0%BF\\_%D1%80%D1%8B%D0%BD%D0%BE%D0%BA\\_%D0%A0%D0%BE%D1%81%D1%81%D0%B8%D0%B8](http://www.tadviser.ru/index.php/%D0%A1%D1%82%D0%B0%D1%82%D1%8C%D1%8F:%D0%98%D0%BD%D1%82%D0%B5%D1%80%D0%BD%D0%B5%D1%82-%D0%B4%D0%BE%D1%81%D1%82%D1%83%D0%BF_%D1%80%D1%8B%D0%BD%D0%BE%D0%BA_%D0%A0%D0%BE%D1%81%D1%81%D0%B8%D0%B8)).

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

The Upper House of Parliament creates a single federal portal for legal aid and legal education, on which citizens can receive any legal assistance free of charge (<https://fparf.ru/polemic/interview/o-edinom-federalnom-portale-yuridicheskoy-pomoshchi-i-pravovogo-prosveshcheniya/>); state authorities in the regions organize hotlines in departments, including social departments, to provide free legal assistance ([http://www.msch-severstal.ru/telefonny\\_besplatnoy\\_yuridicheskoy\\_pomoschi\\_89/](http://www.msch-severstal.ru/telefonny_besplatnoy_yuridicheskoy_pomoschi_89/)), hotline for seniors during World Elderly Day (<http://www.pfrf.ru/branches/tver/news~2018/09/28/167207>). Organization by the regional social centers of the Days of free legal aid, timed to coincide with the Day of an elderly person (<http://sobes.tatarstan.ru/rus/provodimie-meropriyatiya-aktsii-1165757.htm>); regional NGOs, with support from grants, organize legal education and legal assistance projects for older people (<http://pravo-na-zashchitu.ru/news/2019>).

## 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 country's constitution (Article 19, paragraph 1) determines that "everyone is equal before the law and the court" (<http://constitutionrf.ru/rzd-1/gl-2/st-19-krf>), the right for every judicial defense of his rights and freedoms (Article 46, parts 1 and 2, <https://www.garant.ru/products/ipo/prime/doc/70301918/>). The expansion of the use of the institute of jurors allowed this mechanism to be applied to persons over 65 (2018, <https://www.eg-online.ru/article/357402/>).

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.

The Criminal Code of the Russian Federation prohibits violation of the equality of human rights and freedoms, but this norm does not include age as a form of discrimination (<https://news.rambler.ru/other/40942955-bezzaschitnyy-vozrast-pochemu-zakon-ne-zaschischaet-buduschih-pensionerov-ot-uvolneniya/>); to eliminate the negative consequences of discrimination / ageism, judicial law may remove restrictions (or confirm them) of regulatory legal acts, set use cases (<https://cyberleninka.ru/article/n/ogranicheniya-v-sudebnom-i-sudeyskom-prave-teoriya-i-praktika>), according to the decisions of the Supreme Court (2009) restriction of the right to judicial appeal is unacceptable; according to the results of monitoring the work of the courts, lawyers identified strategies: public education in the field of rights, opening legal systems for the poor, assistance from lawyers, the creation of procedures to facilitate court appeals, the accessibility of judicial personnel to people, the ability of NGOs to speak on behalf of people who are disadvantaged, optimization of state fees, development of pre-trial reconciliation mechanisms; the creation of ramps and elevators in courthouses, the introduction of sign language interpreters; legal scholars talk about the need for greater accessibility of people to attend courts, about creating a unified open database of court decisions, about the need for online broadcasting of court hearings, to revive judicial journalism, the availability of their own websites for each federal / magistrate judge (<https://cyberleninka.ru/article/n/problemy-dostupnosti-pravosudiya-v-rossiyskoy-federatsii>).

## 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

The principle of impartiality is based on the Constitution of the Russian Federation (Article 120, paragraph 1 <http://constitutionrf.ru/rzd-1/gl-7/st-120-krf>); guarantees of the independence of the courts are contained in the Law "On the Status of Judges in the Russian Federation" (Articles 9-10 <https://cyberleninka.ru/article/n/sistema-garantiy-obespechivayuschih-printsip-nezavisimosti-sudey-v-ugolovnom-sudoproizvodstve>); to develop the independence of the legal and judicial systems, the Government approved the plan "On the federal target program" Development of the Russian judicial system for 2013-2020 " <http://docs.cntd.ru/document/902391636>). Russian law defines the following guarantees for the independence of the courts: openness of the courts; prohibition of interference of state bodies, other persons / bodies in the activities of judges; the presence of an out-of-procedure procedure for appeals by state bodies, other persons / bodies; the possibility of posting extra-procedural appeals to the court on the Internet; a ban on interrogation of judges and more ( <https://cyberleninka.ru/article/n/sistema-garantiy-obespechivayuschih-printsip-nezavisimosti-sudey-v-ugolovnom-sudoproizvodstve>).

General mechanisms for supervision of compliance with laws in relation to citizens: the Supreme, the Supreme Arbitration Courts, the Ministry of Justice, the Prosecutor's Office, and the Ministry of Internal Affairs. Oversight of anti-discrimination legislation is carried out by relevant state bodies, for example, in the field of labor - this is the Federal Labor Inspectorate

(<https://websot.iimdo.com/%D0%BE%D0%B1%D1%89%D0%B8%D0%B5-%D0%BF%D0%BE%D0%BB%D0%BE%D0%B6%D0%B5%D0%BD%D0%B8%D1%8F/%D0%B3%D0%BE%D1%81%D1%83%D0%B4%D0%B0%D1%80%D1%81%D1%82%D0%B2%D0%B5%D0%BD%D0%BD%D1%8B%D0%B9-%D0%BD%D0%B0%D0%B4%D0%B7%D0%BE%D1%80-%D0%B8-%D0%BA%D0%BE%D0%BD%D1%82%D1%80%D0%BE%D0%BB%D1%8C-%D0%B7%D0%B0-%D1%81%D0%BE%D0%B1%D0%BB%D1%8E%D0%B4%D0%B5%D0%BD%D0%B8%D0%B5%D0%BC-%D1%82%D1%80%D0%B5%D0%B1%D0%BE%D0%B2%D0%B0%D0%BD%D0%B8%D0%B9-%D0%BE%D1%85%D1%80%D0%B0%D0%BD%D1%8B-%D1%82%D1%80%D1%83%D0%B4%D0%B0/>);

Only now a law was passed (July 2019) on supervision of the rights of persons with disabilities to the availability of infrastructure and services (<http://kremlin.ru/acts/news/61035>). According to human rights experts, "no other state bodies are dealing with problems of protection against discrimination" (<http://www.garant.ru/article/1127456/>). The opinion of experts confirms the case of an elderly patient who lost housing during preparations for the Olympics in Sochi - he was repeatedly evicted from bailiffs by bailiffs, he was denied the right to judicial protection (<https://takiedela.ru/2019/09/povsyudu-naptichikh-pravakh/>).