



Inputs of the Ombudsman's office of Peru to the 11th session of the United Nations Open-ended Working Group on Ageing for the purpose of strengthening the protection of the human rights of older persons

Focus Area: Access to justice

National Legal and Policy Framework

In Peru, article 138 of the Political Constitution establishes that the power to administer justice is exercised by the Justice Department its hierarchical organs in accordance with the Constitution and the law.

In the field of the elderly persons, Law 30490, Law elderly person, recognizes in the article 5.1, literal ñ, the right of access to justice. The article 8, literal b, of the implementing regulations of that Law has provided, as one of the State's duties, that priority should be given to measures designed to facilitate access to justice for older persons, in accordance with national and international provisions and conventions.

Availability

In Peru, there are alternative dispute resolution mechanisms, such as conciliation, regulated by Law 26872, and arbitration, regulated by Legislative Decree N°1071.

Accessibility

About the State's services, the Ministry of Justice and Human Rights provides free legal assistance, defence services and free conciliation centres; nevertheless, these services are not exclusively for elderly persons.

The Ombudsman's Office of Peru has taken note that the Justice Department has adhered to the implementation of the 100 Brasilia Rules on Access to Justice for Persons in Vulnerability Conditions. In this context, it has issued the following provisions:

- Administrative Resolution 134-2016-CE-PJ, July 15, 2016 approved Directive N° 006-2016-CE-PJ regulating the Judicial Alert System for Elderly Persons, which warns judges about the existence of judicial processes in which the population is involved.
- Administrative Resolution No 046-219-CE-PJ, February 12, 2019 approved Regulation about the transition to the support system in compliance with the Social Model of Disability, whose general objective is access to justice for persons with disabilities.
- Administrative Resolution No 010-2018-CE-PJ.D, January 20, 2018 approved Protocol on Judicial Assistance for Persons with Disabilities, which lays down guidelines for their appropriate attention.
- Administrative Resolution N° 264-2017-CE-PJ.D, September 29, 2017 approved Itinerant Justice Protocol for access to justice for persons in vulnerability conditions.

Also, the Justice Department has created the National Programme for Access to Justice for Vulnerable Persons and Justice in Your Community, for the better implementation of the 100 Brasilia Rules and the Charter of Human Rights.

In addition, the National Plan for Access to Justice for Persons in a Vulnerability Situation - Justice Department 2016-2021, approved in April 2016, has included objectives and actions for elderly persons.

About the problems faced by elderly persons, we can highlight the delay in the judicial's processes. In 2015, Constitutional Court of Peru (File No. 02214-2014-PA/TC), established as a binding criterion, that all courts are under an obligation to speed up processes involving the rights of elderly persons.

Another problem identified is the payment of court fees. There are some exonerations in family processes but is not extend to all process.

Accountability

In Peru, Criminal Code's article 323 establishes that age discrimination is a crime.

Finally, the Justice Department have a office de control "Oficina de Control de la Magistratura", which acts as a disciplinary organ.

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