

Guiding questions for defining the normative content of the issues examined at the eleventh session of the General Assembly open-ended working group for the purpose of strengthening the protection of the human rights of older persons

Right to work and access to the labor market

The Inter-American Convention On Protecting The Human Rights Of Older Persons, ratified by Chile and which obliges the state to adapt the legislation for its fulfillment, manifests in its article N°18 that the right to work is a guarantee of other human rights and constitutes a basic component, inseparable from human dignity and that it aims to the recognition of the special conditions that older people must enjoy to make effective the guarantees of equality and non-discrimination in labor matters.

In this respect, there is a few regulations and bills that aims to the principles of non-discrimination based on age and autonomy and Independence.

Decree 9 (2019) that modifies Decree No. 42 of 2011, of the Ministry of Labor and Social Security (MINTRAB), which establishes components, lines of action and procedures, modalities and control mechanisms of the training program in trades of MINTRAB

The Positive Aging Bill, presented in October 2020, which in its article 13, incorporates modifications to Title II of Book I of the Labor Code, contained in the decree with force of law No. 1, of 2002, of the Ministry of Labor and Social Welfare.

In other aspects, these modifications improve elements associated with the employment contracts to which the elderly are subject, taking into consideration their physical health, mobility and availability of working hours.

In terms of good practices regarding facilitating the labor inclusion of older people, some policies, programs and initiatives should be highlighted:

- **Experiencia mayor:** incentive to hire older people through a subsidy to the business or enterprise, which includes training.
- **Adulto digital:** Which provides skills that help improve job qualification through via training in the areas of information technology, entrepreneurship and languages, among others.
- **Eliminación de límite de edad:** Work has been done to remove the upper age limit for job training, which previously stood at 65 years.

- **Subsidio al nuevo empleo:** Benefit to the new job that will be delivered to the worker. As a requirement, it is necessary to have a new employment contract (in the current month or maximum the month prior to the application). Have a gross monthly remuneration less than

or equal to 3 Minimum Monthly Income. Beneficio al nuevo empleo que se entregará al trabajador. Como requisito es necesario tener un nuevo contrato de trabajo (en el mes en curso o máximo el mes anterior a la postulación). Tener una remuneración mensual bruta menor o igual a 3 Ingresos Mínimos Mensuales. A través de SENCE.

- **Bono retorno al trabajo:** There is also a bonus for workers who return after having their work suspended under the employment protection law, in the context of COVID-19.

[Access to justice](#)

The article 31 of the Inter-American Convention On Protecting The Human Rights Of Older Persons, establishes effective access to justice, as well as the guarantee of decent and preferential treatment for older persons during judicial proceedings, including non-adversarial mechanisms for conflict resolution (Art. 31).

The Protocol on Access to Justice for the Elderly, for its part, is aimed at judges and its purpose is to deal with cases that affect the elderly, providing rules of action and effective protection mechanisms that ensure greater protection of their rights in access to justice, guaranteeing the principle of equality and non-discrimination based on age.

The Positive Aging bill, for its part, establishes some actions, among which it proposes:

- Institutional judicial sponsorship through SENAMA, granting it the function of ensuring compliance with the legal and regulatory provisions related to the protection of the rights of the elderly.
- Programs for the reestablishment of rights, through collaborators, such as Foundations, Judicial Assistance Corporation or others, to give preferential attention, through the institutions with which it has entered into agreements, to older adults to represent them in court and/or or advise on technical legal matters or family courts, when requested.
- Legal representation of the non-profit Long Term Care (ELEAM) Institution`s residents who receive SENAMA funds is granted to the Directors of the ELEAM, to collect pensions and demand major food, which would increase the economic resources of the ELEAM destined to the assistance of the elderly residents. .
- The exercise of judicial representation in these cases would be carried out through the Senior Defender (an already existing figure).
- Law No. 19,968, which creates the Family Courts, is modified, establishing protection measures for older adults with the objective of safeguarding, among others, their economic subsistence and patrimonial integrity.

- Social abandonment of the elderly: In cases in which the complaint falls on an elderly adult and a situation of social abandonment is corroborated, understood as cases in which there is no active subject of domestic violence, the Court may order the measures of protection in their favor established in article 92.

Guiding questions for the twelfth session of the General Assembly open-ended working group for the purpose of strengthening the protection of the human rights of older persons

Contribution of older persons to sustainable development

The Positive Aging Bill is situated in the context of fulfilling the objectives and goals of the 2030 Agenda for Sustainable Development, which focus on guaranteeing the healthy life and well-being of all people; reduce inequality within and between countries; empower and promote the social, economic and political inclusion of people, regardless of their age; ensure that cities and human settlements are inclusive, safe, resilient and sustainable, without access barriers, and promoters of social participation. This will not be possible without considering the phenomenon of population aging, much less if efforts are carried out in an isolated and uncoordinated manner.

Among the principles that govern this Bill, in its article number 2, we can find the principles of dignity, independence, protagonism and autonomy of the older adult; the equality and non-discrimination and the full and effective participation, integration and inclusion of the elderly in society.

Economic security

the Inter-American Convention On Protecting The Human Rights Of Older Persons, establishes establishes the right to social security (Art. 17), which is linked to the right of every person to enjoy a decent standard of living and aims to guarantee human dignity when people face circumstances that deprive them of their capacity to fully exercise rights. These include lack of income from work due to illness, disability, maternity, work accident, old age or death of a family member; excessive health care spending and insufficient family support, particularly for children and dependents.

There are several laws and regulations -based on the principals of dignity and equality, autonomy and Independence and non discrimination based on age:

- Law No. 20,255 (2008) establishes pension reform (Ministry of Labor and Social Security, MINTRAB)
- Law No. 20,459 (2010) facilitates access to basic solidarity pensions for disability and old age (MINTRAB)

- Law No. 20,531 (2011) exempts pensioners, totally or partially, from the obligation to contribute for health (Ministry of Finance)
- Law No. 20,864 (2015) exemption from the obligation to make health contributions to pensioners over 65 years of age (MINTRAB)
- Law No. 21,190 (2019) improves and establishes new benefits in the solidarity pension system (MINTRAB) Art. 17
- Decree 23 (2008) that approves the regulation of the solidarity pension system established in Law No. 20,255 (MINTRAB)
- Decree 28 (2008) approves the regulation for the determination of beneficiaries of basic solidarity pension lacking resources (MINTRAB)
- Decree 29 (2008) approves the regulation of the Commission of Users of the Pension System (MINTRAB)
- Decree 29 (2009) approves the regulation of the child allowance for women established in Law No. 20,255 (MINTRAB)
- Decree 10 (2012) approves regulations that establish rules on total or partial exemption from the obligation to contribute for health established by Law No. 20,531 (MINTRAB)
- Bill for the pension system pension reform presented in September 2021.