

## **Normative content of topics examined in the XI Session of the Open-Ended Working Group on Aging**

### **Focus area 1: Right to work and access to the labor market**

#### **Definition**

The Dominican Constitution defines the right to work as a duty and a social function that is exercised with the protection and assistance of the State.

The right to work of the elderly is contained in Law No. 352-98 on Protection of the Aging Person, as the conglomerate of actions aimed at guaranteeing the participation and permanence of the elderly in working life, without discrimination in aspects such as: Adequate working conditions, wages, work environment and work schedules for older adults.

#### **Scope of the right**

In the Dominican Republic, the right to work is a fundamental right, which must be exercised without discrimination, therefore, for older people to have access to the labor market, there are fundamental regulatory elements that must be fulfilled, such as:

- Non-discrimination based on age to access the labor market.
- Guarantee of gender equality and equity for the elderly
- Freedom of association
- Guarantee in working conditions and environment
- Guidance and training for the elderly about their retirement and social security rights.

In relation to the existing standards on the elements below, we can make the following references:

#### **a) Prohibition of all forms of discrimination against older persons for reasons of age, alone or combined with other causes, in everything related to employment.**

- Dominican Constitution, art. 62, numeral 5.
- Law No. 352-98 on Protection of the Elderly, literal (f)
- Guide to labor rights for equal opportunities and non-discrimination, from the Ministry of Labor of the Dominican Republic. Section 4.3. Page 43
- Equal Remuneration Convention, 1951 (No. 100)
- C105 - Abolition of Forced Labor Convention, 1957 (No. 105)
- C111 -Discrimination (Employment and Occupation) Convention

#### **b) Elimination of all forms of age discrimination in the workplace and organizational cultures.**

- Dominican Constitution, art. 62, numeral 5.
- Law No. 352-98 on Protection of the Elderly Person, literal (f)
- Guide to labor rights for equal opportunities and non-discrimination, from the Ministry of Labor of the Dominican Republic. Section 4.3. Page 43

- c) Provision of reasonable adjustments to older people in the workplace.**
  - Law No. No. 352-98 on Protection of the Elderly, literal (H)
  
- d) Affirmative action programs to promote the hiring of older people.**
  - Law No. 352-98 on Protection of the Elderly, literal (j)
  
- e) Access to professional development programs, technical and professional guidance, internships, services, vocational and skills development.**
  - Law No. 352-98 on the Protection of the Elderly, literals (f) and (i).
  
- f) Access to flexible or gradual retirement plans and flexible work practices for older workers**
  - Law No. 352-98 on Protection of the Elderly, literal (d)
  
- g) Promotion of self-employment and entrepreneurship of the elderly**
  - Law No. 352-98 on Protection of the Elderly, literal (g)
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- h) Favorable, fair and safe working conditions when carrying out formal or informal activities or work not listed.**
  - Law No. 352-98 on Protection of the Elderly, literal (H)
  
- i) Access to quick solutions and compensation when the right to work of older people and access to the labor market are denied.**
  - At this point, there are no mechanisms for rapid solutions in the current national regulations, however, the Ministry of Labor, the state body in the matter, receives complaints about refusals and appeals can be made before the Constitutional Court against administrative decisions that deal with violations of the right to work.

### **State obligations**

Regarding the normative elements provided above, we consider that the measures that the State must take to respect, protect and make effective the right to work and access to the labor market of older persons are:

- Implement adjustments to older people in the workplace, both in terms of accessibility and capabilities.
- Internship programs to promote the hiring of older people through incentives.
- Professionalization of informal services carried out by older people, generally with little

remuneration.

- Verify the social security law regarding the incompatibility of work and pension.
- Strengthen the supply side, through training courses, worker training, knowledge updating; those that are concentrated on the demand side, such as employment subsidies, direct creation of public employment or promotion of private employment.
- Improve the links between supply and demand, taking into account an inter generational component for purposes of integration and not displacement.

## Special Considerations

As special measures and specific considerations that must be taken into account when developing the normative content of the right of older persons to work and access to the labor market, we can mention:

- Create labor access policies for the private and public sectors that are not discriminatory
- Education and training on a tolerant and equal treatment of all employees.
- Establish a sanctions regime.
- Recognize through legal mechanisms the unpaid work carried out by older women.
- Regularization of informal work, so that they can be included in a mixed coverage regime in the social security system, with a minimum contribution from the older adult worker who performs informal work.
- Formalize care work, so that it is recognized as paid work.
- Verify job creation profiles and update functions in relation to the skills of this population to guarantee greater access.
- Establish a minimum inclusion percentage for the hiring of older adults in institutions and companies.

Regarding how the responsibilities of non-state parties, such as the private sector, should be defined in the context of the right to work and access to the labor market for the elderly, we consider that the improvement of the quality of life of the elderly is integrated by the participation of the State, the family and society to achieve this objective. Therefore, the private sector is essential for the achievement of public policies aimed at access to employment. For this, we propose some lines of action that would reduce inequality in this fundamental right of the person, such as:

- Grant the corresponding labor benefits as workers, without discrimination.
- Ensuring a dignified retirement.
- Carry out internship programs to include a quota of older adults in their jobs.
- Verify the profiles and functions and adjust to the needs of older adults coordinated with labor needs.
- Create continuous training programs that allow staff to be updated and that these job requirements do not become obstacles for older people.

## Implementation

The Dominican Republic has implemented good practices that recognize the right and access to the

labor market of older adults, such

as:

- **Education, Training and Recreation Program**, through which, various training programs, registered older adults are strengthened and/or generated capacities in different occupational activities. (Orchards, Baking, literacy, arts and crafts, among others). There is also training in English language, arts and computers, so that older adults can expand their knowledge and be more competitive in the labor market.
- **Info-Literacy Program**, this seeks to train older adults in technologies, as a means to improve their skills and reduce the gap of generational displacement in jobs due to digital illiteracy.
- **internship program**, Seeks to insert older adults into the public sector with adequate and pertinent jobs for the specific conditions of older adults integrated into the program.

As main challenges in the adoption and implementation of the regulatory framework on the right to work and access to the labor market for older people, we can highlight:

- Low job offer.
- Among employed adults, agriculture is over represented and in this branch of activity the unemployment rate is usually below average.
- Most of the older adults who continue to work are in the informal sector, which is why they have lower incomes and less chance of accessing training programs and a decent pension.
- Companies do not have as a priority to invest in a population group with a high risk of definitive retirement, in fact, they put up some resistance, since they foresee more the possible loss in training expenses that they could have.
- Law No. 352-98 does not establish a quota (%) of the public or private labor market that must be reserved for older adults, which limits this population from having more access.

## **Focus Area 2: Access to Justice**

### **Definition**

There is no specific definition of access to justice for older adults, however, the Dominican Constitution, establishes that every person, in the exercise of their rights and legitimate interests, has the right to obtain effective judicial protection, with respect for due process that will be made up of the minimum guarantees established in the aforementioned article, which constitutes the right of access to justice for all citizens.

### **Scope of the right**

As normative elements of the right of the elderly that we consider key for this population to be able to access justice on equal terms with others, we highlight the following:

- Non-discrimination based on age to access the labor market.
- Guarantee of gender equality and equity for the elderly
- Freedom of association
- Guarantee in working conditions and environment
- Guidance and training for the elderly about their retirement and social security rights.

## State obligations

As mechanisms or measures that we consider are necessary to ensure the enjoyment and control the implementation of the right of older persons to access justice, including the obligations of the State to respect, promote, protect and fulfill the right, we highlight the following:

1. Create a unit in the judicial field (single window for older adults) that guarantees and facilitates access to justice.
2. Grant reasonable and considered terms according to the state of vulnerability of the elderly person, in judicial administrative processes.
3. Give priority to judicial processes where older adults are involved.
4. Promote the sensitivity of the personnel who work in the judicial system, both in the administrative and operational areas.
5. Establish administrative sanctions in cases of non-compliance with measures and provisions issued in favor of guaranteeing access to justice for older adults.

## Special Considerations

Among the special considerations or specific issues that must be included in the right of the elderly to access to justice, including procedural and age-appropriate adaptations, as well as responsibilities of non-state actors, we can mention:

- a. Specialized care
- b. Reductions in tax payments or payments for judicial services.
- c. Speed in the knowledge of the processes.
- d. Establish professional care commitments

## Implementation

As best practices and main challenges that your country faces in the adoption and implementation of the regulatory framework on the right of access to justice for older persons, we have:

1. The implementation of a protocol for access to justice for vulnerable groups, prepared by the Judiciary, UNDP and various State institutions.
2. The implementation of a Directorate for Children, Adolescents and Family of the Judiciary, (Family Mediation Center).
3. The Department of Children, Adolescents and Family (DNAF) of the National District Prosecutor's Office, which cares for older adults and other family members.
4. The implementation of a Specialized Prosecutor's Office against abuse and mistreatment of the elderly, attached to the Human Rights Unit of the Attorney General's Office.
5. The Department of Complaints and Follow-up of Cases of CONAPE, for the investigation of complaints about violations of the fundamental rights of older adults.

Among the challenges, we highlight:

1. Establish access to justice as a fundamental right in current regulations.
2. Strengthen existing mechanisms to guarantee greater access to justice for the older adult population.
3. Establish a regime of sanctions in Law 352-98 on the Protection of the Aging Person to guarantee the full exercise of the fundamental rights established in these regulations.



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4. Achieve effective access to justice for older adults, which guarantees the execution of sentences with the authority of res judicata.