

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

Definition

1. How is the right to work and access to the labor market for older persons defined in the national legislation in your country? If such a definition is not available, how should it be defined considering relevant existing national, regional and international legal frameworks?

The Italian legislation does not provide an overall definition of elderly person/population or aged workforce and leaves it to national or regional legislators to determine, sector by sector, the relevant age thresholds, where necessary.

The issue has its foundation in the Italian Constitution in the recognition and guarantee of inviolable human rights, pursuant to art. 2 of the Constitution, as well as in the definition of the principle of equality, both formal and substantial, without distinction of personal and social conditions among citizens, such as, for example, the age of the latter (art. 3 of the Constitution).

Furthermore Article 15 (Discriminatory Acts), second paragraph, of Law no. 300/1970 "Regulations on the protection of the freedom and dignity of workers, of trade union freedom and trade union activity, in the workplace and rules on employment", establishes the nullity of any agreement or direct act against the worker for " of political, religious, racial, language or sex discrimination, disability, age or based on sexual orientation or personal beliefs ".

With the Decree of the Ministry of Labor and Social Policies of October 17, 2017, a peculiarity of the age factor was recognized within the regulations pertaining to the definition of the types of socioeconomic conditions that characterize the disadvantaged position in the labor market, expanding the margins of intervention in the field of state incentives. The Ministerial Decree of October 17, 2017 introduced, in fact, contributory incentives to hiring in favor of workers over 50 and women, included in the category of disadvantaged persons.

Although it does not represent a specific measure for the elderly segment of the population, in 2018, with the Inclusion Income, replaced from March 2019 by the Citizenship Income (Citizenship Pension starting at 67 years of age), Italy has adopted a structural minimum income measure of a national nature whose activation purpose presupposes (without losing social inclusion) the readiness to actively search for a job with the support of public employment services. Up to the age of 67, the Citizenship Income is linked to the signing of a Pact for Work or a Pact for Inclusion, corresponding to a personalized path of accompaniment to job placement and social inclusion that may include community service activities, professional retraining or completion of studies as well as other participatory initiatives useful to pursue the same goals.

Scope of the right

2. What are the key normative elements of the right to work and access to the labor market for older persons? Please provide references to existing standards on elements such as:

- a) Prohibition of all forms of discrimination against older persons on the basis of age, alone or combined with other grounds, in all matters related to employment.

- b) Elimination of all forms of ageism and age discrimination from the workplace and organizational cultures.
- c) Provision of reasonable accommodation to older persons in the workplace.
- d) Affirmative action programs to promote the hiring of older persons.
- e) Access to career development, technical and vocational guidance programs, placements services and vocational and skills development.
- f) Access to flexible or gradual retirement schemes and flexible working practices for older workers.
- g) Promotion of older persons' self-employment and entrepreneurship.
- h) Favorable, fair, and safe working conditions when undertaking formal, informal or unenumerated work.
- i) Access to prompt remedies and redress when older persons' right to work and access to the labor market is denied.

The percentage of men and women in the second half of their working careers saw an increase in their share of the total unemployed, reaching 33.4% and 32%, respectively, of those actively seeking work in 2020.

This situation has determined the need to stabilize over time the national incentive measures to hire 50+ workers and female workers regardless of their age. Started with the reform of the job market in 2012, incentives come in the form of 50% coverage of social security costs borne by employers. As already mentioned, in addition to these measures, a 100% exemption from contributions (up to a maximum of Euro 6,000) was granted for the hiring of 50+ women in the 2021-2022 two-year period. These measures have supplemented the contribution subsidies to employers who hire workers who benefit from the various forms of welfare support measures (NASpI, special redundancy fund, CIGS, relocation allowance), or fall into fragile categories, such as persons with disabilities, persons deprived of their liberty or beneficiaries of Citizenship income.

On a second front, starting above all with the 2008 financial crisis and in a more accentuated manner in response to the Covid-19 pandemic, the same set of welfare support measures has been progressively extended to categories of precarious and self-employed workers, previously not covered by these measures, together with a series of welfare measures previously intended exclusively for workers with standard employment contracts.

In accordance with the European Union's Life-long Learning Policy Framework , Italy has adopted a coherent strategic approach starting with the reform of the job market in 2012 , defining life-long learning as "any activity undertaken by people in a formal, non-formal and informal way, at different stages of life, in order to improve knowledge, skills and competences, in a personal, civic, social and occupational perspective" . The provisions set out in legislation and in the subsequent State-Regions agreements have led, as discussed above, to establishing the Inter-Institutional Committee on Life-long Learning (Tavolo Interistituzionale sull'Apprendimento Permanente - TIAP) and, later, to the preparation of the National Strategic Plan for the Development of Competencies of the Adult Population.

The consequences of demographic changes on the job market have also been addressed by strengthening measures aimed at favoring the work-life balance, also with a view to encouraging the propensity of families to procreate, rebalancing the commitment of men and women to parental care. This includes a variety of actions that, especially since the adoption of the Jobs Act in 2015 have extended the procedures for the use and the number of beneficiaries of parental leave and maternity benefits, as well as mandatory and optional paternity leave; have encouraged the transformation of employment contracts from full-time to part-time for reasons for work-life balance needs; have made the transfer of staff among Public organizations more flexible, favoring the use of remote work to support work-life balance; have financed organizational measures to encourage working mothers to return to work after childbirth; have

supported the costs related to parental care (babysitting) and have protected the maternity of specific categories of workers

The women's social APe (APe sociale donna) was extended, which provides for a reduction in contribution requirements for women with children (one year for each child, up to a maximum of two years). In relation to these issues, it is also worth mentioning the CLEAR Project (Closing the gEndEr pension gAp by increasing women's awarReness), launched as part of the EU program REC-Rights, Equality and Citizenship 2014-2020, with the aim of providing women with adequate knowledge to assess the consequences of their work choices on pension levels, thus helping to reduce the gender pension gap. Finally, to support gender pay equality, the 2021 Budget Law has set up a special fund at the disposal of the Ministry of Labor and Social Policies, with resources of Euro 2 million per year starting from the year 2022, intended to financially cover actions aimed at raising awareness of the social and economic value of gender pay equality and equal opportunities in the workplace.

State obligations

3. What are the measures that should be undertaken by the State to respect, protect and fulfil the right to work and access to the labor market for older persons, regarding the normative elements as provided above?

Special considerations

4. What special measures and specific considerations should be considered in developing the normative content of the right of older persons to work and access to labour market, such as protection and regularization of older workers in informal sector, equal remuneration for work of equal value particularly for older women as well as recognition of unpaid work often carried out by older women?
5. How should the responsibilities of non-State parties such as private sector be defined in the context of the right to work and access the labour market for older persons?

Implementation

6. What are the best practices and main challenges faced by your country in the adoption and implementation of the normative framework on the right to work and access to the labor market for older persons?

Italy has recently adopted (Joint Conference, 8th July 2021) the “National strategic plan for the upskilling and reskilling of the adult population”. The plan was prepared by the Technical inter-institutional committee on Italian adult education established by Joint Conference 20th December 2012. The Technical inter-institutional committee has involved institutions that are part of the multi-actor and multilevel governance of the adult learning sector.

The Plan has as main objectives the creation of a strengthened coordination infrastructure between the different national policies and measures in this sector, and the setting of new lines of intervention for a first three-year of implementation period (2021/23). More specifically, the Plan has three strategic activity axes which aim to increase chances of bridging the skills gap for the majority of the adult population.

Firstly, ‘intercepting, reaching out to and guiding individuals’. This strategic activity aims to strengthen existing services - improving their attractiveness and effectiveness - and to activate new forms of intervention capable of reaching the low-skilled/low-qualified adults who tend to alienate, disengage and renounce the exercise of active citizenship. Specific investments will be addressed to increase the proximity, accessibility and integration of welcome and guidance services and raising the skills of guidance professionals.

Secondly, ‘qualifying and upskilling human capital’ has been identified considering that it is necessary to extend the personalisation of the existing learning offer (in matters such as contexts, content, timing and methods of learning assessment, teaching and IT supports), maintaining a focus on basic skills (raising and updating the literacy and qualification levels of the adult population, offering a personalisation of education, training, work and socio-work inclusion services, and qualifying demand and use of skills by strengthening entrepreneurship and management competences).

The third strategic activity is ‘intermediating and synchronising skills supply and demand’; this will include both actions at system level, and actions at the level of individuals, direct beneficiaries of the plan. Actions matching beneficiary learning needs better (include improving the quality of services aimed at the enhancement and portability of skills, supporting measures to strengthen and promote alliances that integrate and enhance formal learning contexts with non-formal and informal learning, and measures aimed at strengthening active ageing and reverse mentoring).

Access to justice

Definition

1. What is the definition of the right of older persons to access justice in the national legislation in your country? Or how should such a right be defined, considering existing national, regional and international legal framework?

Scope of the right

2. What are the key normative elements of the right of older persons to access justice on an equal basis with others? Please provide references to existing standards on such elements as below, as well as any additional elements:

(a) The guarantee of older persons’ legal capacity (legal standing and legal agency) on an equal basis with others and not denied on the basis of age;

(b) Elimination of the influence of ageist stereotypes at any stage of judicial or non-judicial proceedings, including the award of damages or compensation;

(c) Access to timely legal proceedings, especially in situations of immediacy;

(d) Accessibility of courtrooms, legal tribunals and other justice-related facilities to all older persons;

- (e) Access to legal services, including legal assistance, legal aid, counselling and hotlines, on an equal basis with others ;
- (f) Access to alternative, non-judicial pathways to justice, including, but not limited to, one-stop community justice centres, paralegal support, ombuds procedures or specialist commissioners;
- (g) Access to reasonable accommodation in all legal and administrative proceedings at any stage to facilitate older persons' effective role as direct or indirect participants in justice proceedings;
- (h) Adequate and appropriate training to all those working in the administration of justice and law enforcement, including the judiciary, police and prison staff, on the rights of older persons;
- (i) Accommodation of the needs of older prisoners, including necessary physical adaptations, protection against violence and extortion, appropriate educational and vocational opportunities, and support with reintegration into the community;
- (j) Equal access of older prisoners to services, including physical, mental and cognitive health, dental, hygiene and hospice services, and social and other support services available to the general population; and
- (k) Access to prompt remedies and redress when older persons' right to access justice is denied.

State obligations

3. What mechanisms or measures are necessary to ensure the enjoyment and to monitor implementation of the right of older persons to access justice, including State obligations to respect, promote, protect, and fulfill the right?

Special considerations

4. What special considerations or specific issues should be included in the right of older persons to access justice, including procedural and age-appropriate accommodations as well as responsibilities of non-State actors?

Implementation

5. What are the best practices and main challenges faced by your country in the adoption and implementation of the normative framework on the right to access justice for older persons?

