

**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?

According to Article 37 of the Constitution of the Russian Federation “Everyone has the right to work... without any discrimination...”

(<https://www.yarregion.ru/depts/dgszn/tmppages/news.aspx?newsID=935>). According to the Labor Code of the Russian Federation (Article 2), the “right to work” is recognized, employment is encouraged, and “equality of rights and opportunities for workers” is ensured (<http://pravo.gov.ru/proxy/ips/?docbody=&nd=102074279>). There are no definitions for older people.

**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.

Labor legislation does not establish a link between the right to guarantees and compensation and the age of the worker; as a general rule, the maximum age for concluding an employment contract is not established by the legislation of the Russian Federation

(<https://xn--80akibcicpdbetz7e2g.xn--p1ai/reminder/172>,

[https://git63.rostrud.gov.ru/v\\_pomoshch\\_rabotodatellyu/90058.html](https://git63.rostrud.gov.ru/v_pomoshch_rabotodatellyu/90058.html),

[https://epp.genproc.gov.ru/ru/web/proc\\_26/activity/legal-education/explain?item=61162728](https://epp.genproc.gov.ru/ru/web/proc_26/activity/legal-education/explain?item=61162728));

b) Elimination of all forms of ageism and age discrimination from the workplace and organizational cultures.

Expert: there are no effective means of protection against age discrimination at the national level - it is problematic to prove the fact of discrimination in court, the labor inspectorate does not deal with this, there are no other special bodies (<https://www.kommersant.ru/doc/4299151>);

Expert: in 2013, a direct ban on posting ads containing age restrictions appeared in the legislation, but the problem remained (<https://iz.ru/771625/aleksandr-safonov/pobedit-eidzhizm>);

c) Provision of reasonable accommodation to older persons in the workplace.

Only international experience in the field of labor protection of older workers was found (<https://www.trudcontrol.ru/press/special-ocenka/215/mezhdunarodniy-opit-ohrana-truda-molodezhi-i-pozhilih-rabotnikov>);

d) Affirmative action programs to promote the hiring of older persons.

The program of state support for employers for the employment of unemployed citizens in Russia (2021) does not provide for the employment of older people, among other categories; only pre-retirees are included ([https://fss.ru/ru/fund/for\\_enterprises\\_and\\_organization/587959/index.shtml](https://fss.ru/ru/fund/for_enterprises_and_organization/587959/index.shtml));

e) Access to career development, technical and vocational guidance programs, placements services and vocational and skills development.

According to the federal project "Employment Promotion" (national project "Demography" 2021-24), there are free state vocational training programs for pre-retirees and retirees based on employment centers

(<https://dszn.ru/deyatelnost/trud-i-zanyatost/Professionalnoe-obuchenie-i-dopolnitelnoe-professionalnoe-obrazovanie/grajdan-starshe-50-let>,

<https://www.kubzan.ru/content/%D0%BF%D1%80%D0%BE%D1%84%D0%BE%D0%B1%D1%83%D1%87%D0%B5%D0%BD%D0%B8%D0%B5%20%D0%BF%D0%B5%D0%BD%D1%81%D0%B8%D0%BE%D0%BD%D0%B5%D1%80%D0%BE%D0%B2>);

f) Access to flexible or gradual retirement schemes and flexible working practices for older workers.

A mechanism for early retirement has been created (a number of categories of pre-retirees) - <https://www.garant.ru/news/1465293/>, <https://rg.ru/2021/04/11/eksperty-raziasnili-who-can-retire-early-retirement.html>;

employers have become more willing to provide flexible working hours, work from home and remote work

([https://www.znak.com/2020-10-21/rabotodateli\\_ekaterinburga\\_stali\\_chache\\_nanimat\\_sotrudnikov\\_na\\_gibkiy\\_grafik](https://www.znak.com/2020-10-21/rabotodateli_ekaterinburga_stali_chache_nanimat_sotrudnikov_na_gibkiy_grafik), <https://www.vedomosti.ru/partner/articles/2021/04/28/868070-novaya-paradigma>);

g) Promotion of older persons' self-employment and entrepreneurship.

In 2019, the registration of self-employed pensioners was only in 23 regions of the country, since the summer of 2020 - throughout the country (<https://kontur.ru/articles/1487>, <https://kontur.ru/articles/4818>);

Since 2018, the state has been offering free business courses and preferential loans to pensioners to start their own business.

(<https://www.vedomosti.ru/management/articles/2018/09/13/780833-bezrobotnih>);

h) Favorable, fair, and safe working conditions when undertaking formal, informal or unenumerated work.

There are no links, there is one about changes in labor protection in 2022, without mentioning the elderly (<https://kontur.ru/articles/4819>);

i) Access to prompt remedies and redress when older persons' right to work and access to the labor market is denied.

According to federal laws (2006, 2018), refusal to conclude an employment contract due to age can be appealed to the court, refusal to hire pre-pensioners is prohibited; refusals can be challenged in the courts

([http://www.consultant.ru/document/cons\\_doc\\_LAW\\_34683/f9ccec223c774c4895b03311bcd7eb355ef9d78f/](http://www.consultant.ru/document/cons_doc_LAW_34683/f9ccec223c774c4895b03311bcd7eb355ef9d78f/), [https://rostov-gorod.ru/administration/territorial\\_unit/proletarian-district/news/86420/](https://rostov-gorod.ru/administration/territorial_unit/proletarian-district/news/86420/));

### **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?

- Develop employment strategies for older people, including older people with disabilities (now only 1/5 of the pensioner is working)

(<https://cyberleninka.ru/article/n/vliyanie-izmeneniy-v-pensionnom-zakonodatelstve-na-razvitiye-rynka-truda-v-rossiyskoy-federatsii>)

- Indexation of pensions for working pensioners

(<https://www.eduklgd.ru/bankrotstvo/indeksatsiya-pensii-rabotayushhemu-pensioneru.html>);

### **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?

Experts: the proposed expansion of the informal sector requires advanced training and retraining programs for the elderly, the creation of flexible jobs and the promotion of the legalization of self-employment (<https://mirros.hse.ru/article/view/12312/12799>);

There is a steady gender pay gap for older workers (data without division into formal and informal sectors)

[https://www.fbk.ru/upload/medialibrary/bce/Gendernyi%20razryv%20%20pay%20labor\\_repor\\_t.pdf](https://www.fbk.ru/upload/medialibrary/bce/Gendernyi%20razryv%20%20pay%20labor_repor_t.pdf), <https://publications.hse.ru/preprints/298874396>;

the gender pension gap is widening

(<https://novayagazeta.ru/articles/2021/11/09/zhenshchinam-dostaiutsia-kroshki-piroga-a-deliat-ego-muzhchiny>);

it is typical that older women spend a lot of time on unpaid housework ("Grandmother's Institute" (<https://postnauka.ru/video/156671>);

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?

National Strategy for Action for Older Persons: Employers have negative stereotypes about the employment of older people

(<https://starikam.org/poleznaya-informaciya/zakonodatelstvo/proekt-strategii-dejstvij-v-interesax-grazhdan-pozhilogo-vozrasta-do-2025-goda/>);

Media: about 42% of Russian companies are ready to consider candidates of retirement age for a vacancy on an equal basis with young job seekers, another third are ready to hire pensioners as an exception; 28% of companies are not ready to hire retirees

(<https://iz.ru/1210313/dmitrii-alekseev/tolko-posle-vas-pochemu-rabotodateli-izbegaiut-pensionerov>);

experts: it is necessary to prepare enterprises for changes in the age composition - adaptation of the technical base, technologies, working conditions and pay

(<https://ac.gov.ru/archive/files/publication/a/8485.pdf>);

## **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?

Within the framework of the Demography national project, it is currently possible to receive additional education or undergo vocational training free of charge (at the expense of the national project funds) for pre-pensioners and pensioners, even in old age

(<https://iz.ru/1210313/dmitrii-alekseev/tolko-posle-vas-pochemu-rabotodateli-izbegaiut-pensionerov>);

Objectives: overcoming stereotypes in the field of employment of the elderly, preparing industries for the use of older workers on a large scale - adapting equipment and technologies, developing adequate working conditions and modes of work, implementing measures in the labor market, including in state and regional programs to promote employment (<https://ac.gov.ru/archive/files/publication/a/8485.pdf>).