

## **Identification of possible gaps in the protection of the human rights of older persons and how best to address them**

### **QUESTIONNAIRE**

**1. For each of the topics that have been considered by the Open-ended Working Group since its eighth session, please state possible gaps your Government/organization has identified in the normative framework and practical implementation for the protection of the human rights of older persons. (500 words each)**

**a) Equality and non-discrimination**

The Colombian government wished to highlight the Social Protection Program for the Elderly. This program is executed and managed by the Administrative Department for Social Prosperity and seeks to increase the protection of older persons by providing an economic subvention, thus promoting the guarantee of a dignified life and equality of conditions for older persons. Accordingly, it contributes to the construction of a non-exclusive, peaceful, comprehensive society that guarantees the human rights of this population of special protection. Equality and non-discrimination are reflected by expanding the criteria for entrance and permanence in the program.

**b) Violence, neglect and abuse**

It is worth noting that the Social Protection Program for the Elderly grants the adult population greater economic transfers under the modalities of (i) direct economic subsidies; and (ii) indirect economic subsidies. Additionally, a large percentage of older persons live in special centers due to situations of violence, domestic abuse and/or abandonment by their relatives, which can be associated to precarious social and economic conditions that prevent their care and sustenance.

However, the Social Protection Program for the Elderly does not have a mechanism that allows to identify situations of violence, abandonment, or abuse of the older persons in Colombia. A pilot project is being carried out to develop a social component to be included, among other aspects, to be

considered as criteria for inclusion, permanence, or exclusion from the program.

**c) Long-term care and palliative care**

It should be noted that the Administrative Department for Social Prosperity aims to “formulate, adopt, direct, coordinate and execute policies, plans, programs and projects for social inclusion and reconciliation in terms of overcoming poverty.” In this regard, despite efforts made by the Colombian government and although the Social Prosperity currently has a program aimed at caring for the elderly population of the national territory, there are not specific actions contemplated to address a special emphasis on palliative care and/or diseases derived from the course of life.

**d) Autonomy and independence**

The purpose of the aforementioned program is to protect the elderly against the economic risk derived from the inability to generate income, thus providing an economic subsidy for those adults who are homeless, do not have a pension, or live in extreme poverty. It is evident that this program for the elderly has as its ultimate goal the safeguarding of the human and fundamental rights of the older persons population, nonetheless it doesn't have a specific emphasis on the autonomy and independence of older persons.

**e) Protection et sécurité sociales (y compris protection sociale minimale)**

The social programs implemented by Social Prosperity, promote the protection of the older persons (who are considered subjects of special protection under Colombian law) that are in situations of vulnerability, providing them with a minimum allocation that supports and/or guarantee the basic conditions for a dignified life.

Regarding this item, it is worth highlighting that the program is based on the provisions of Law 100 of 1993 "by which the comprehensive social security system is created, and other provisions are dictated". This instrument regulates the comprehensive social security in Colombia, which seeks for the enjoyment and quality of life through the progressive fulfillment of the plans and programs that aim to provide comprehensive coverage of contingencies; particularly, those that impair the health and economic capacity of the inhabitants of the national territory, to achieve individual well-being and community integration. This shows that through

the Social Protection Program for the Elderly program, economic support and inclusion of minimum levels of social security are promoted.

**f) Education, training, lifelong learning and capacity-building**

Currently, the Social Protection Program for the Elderly is carrying out a pilot project for the development of the social component to include, among other aspects, criteria for entry and permanence in education and training facilities.

**g) Right to Work and Access to the Labour Market**

Regarding the individual, it is necessary to consider that those people who meet the required age (Men: 62 years, Women: 57 years) and other requirements, will be able to access the old-age pension in Colombia. Accordingly, the older persons that contribute to the social security system and are in that range of age, cannot work and/or enter the labor market.

Thus, currently, the Social Protection Program does not have a mechanism and/or tool that allows identifying the working conditions of the older persons in Colombia.

**h) Access to justice**

The Social Protection Program for the Elderly has as its main goal the safeguarding of the human and fundamental rights of the older persons, including access to justice.

Specifically, article 13 of the Political Constitution seeks to provide special protection to older persons who, due to their economic, physical, or mental condition, are in vulnerable situations.

Additionally, article 46 of the Political Constitution, created an obligation to the state regarding the protection and assistance of older persons. Accordingly, national authorities have the responsibility to take positive actions that benefit them through the incentive of respect for their rights and assistance so that they live in dignified conditions.

**i) Contribution of Older Persons to Sustainable Development**

It is evident that the Social Protection Program for the Elderly has as its main goal the safeguarding of the human and fundamental rights of the elderly, in line with the 2030 Agenda for Sustainable Development, and the 17 SDG.

#### **j) Economic security**

In recent years, it has been evident that multiple causes are related to the increase of poverty in Colombia. Therefore, the National Government identified the need to implement plans, programs, and projects, that promote the reduction of poverty and have a positive impact in the Colombian population. This is why various provisions were adopted to meet the needs of households in situations of poverty and economic vulnerability, among which is the delivery of economic transfers to older adults in the national territory, which is granted to this population through direct and indirect subsidies corresponding to a value of eighty thousand pesos (\$80,000). Thus, through the delivery of this economic subsidy, the Administrative Department for Social Prosperity seeks to guarantee economic security that allows households and this population to satisfy their basic needs in a sustainable and dignified manner.

#### **k) Right to Health and Access to Health Services**

Law 1751 of 2015 "By which the fundamental right to health is regulated and other provisions are issued", aims to guarantee the fundamental right to health, regulate it, and establish its protection mechanisms. For its effective compliance, bill 339 of 2023 on Health System Reform is being processed in the Congress of the Republic, to date 71 of the 173 articles in the bill have been processed. Highlighting those corresponding to the strengthening of the primary level of care, the monitoring system of the Comprehensive and Integrated Health Services Networks, the intersectoral commissions of social determinants, the strengthening of the public hospital network, corporate governance and the accountability of the Health and Life Managers, the development of the unified and interoperable public system of health information, the strengthening of the inspection, surveillance and control system in leadership of the National Health Superintendency, the training and higher education policy in health, the labor regime with guarantees and better conditions for health workers, the formation of zonal planning and evaluation units, among others.

#### **l) Social Inclusion**

It is worth highlighting that the social programs implemented by Social Prosperity and compared to the Social Protection Program for the Elderly, promote effective social inclusion through the care of these subjects of special protection, through the construction of an equitable and sustainable environments.

**m) Accessibility, infrastructure and habitat (transport, housing and access)<sup>1</sup>**

Currently, the Social Protection Program for the Elderly does not have components and/or complementary offers to the subsidies provided for in the program related to accessibility, infrastructure and habitat.

**n) Participation in the public life and in decision-making processes<sup>2</sup>**

Decree 163 of 2021 "By which the National Council of Seniors is created, and other provisions are issued", indicates that the representation of seniors was very restricted, thus its modification is necessary to give more participation to the population. Nonetheless, despite having an organized civil society, they are not actively involved in decision-making processes.

**Options on how best to address the gaps**

**1. Please state how your Government/organization has engaged with international and regional human rights mechanisms (for example: universal periodic review (UPR) treaty bodies, special procedures, regional mechanisms), specifically with regard to older persons. (500 words)**

The Ministry of Health and Social Protection is the governing body of the Ageing and Old Age Policy by Law 1251 of 2008 and in response to the mandates of the "Inter-American Convention on the Protection of the Human Rights of Older Persons", adopted by Colombia through Law 2055 of 2020, declared enforceable by the ruling of the constitutional court C-395/21 and ratified by the Ministry of Foreign Affairs on September 13, 2022. These instruments protect the 27 fundamental rights and freedoms of which they are entitled. The abovementioned, in response to the new demands of demographic change, considering that between 2011 and

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<sup>1</sup> To be discussed at the 14<sup>th</sup> Open-Ended Working Group on Ageing

<sup>2</sup> To be discussed at the 14<sup>th</sup> Open-Ended Working Group on Ageing

2021 older persons doubled their participation in the national statistics with a growth of 51.5%, which represents 13.9% of the Colombian population. It has to be taken into account, that according to the demographic projections, there will be almost 3 million more elderly people by 2031, which represent a total of 10,012,815, a variation of 41% compared to 2021.

By this regulation and considering the situation of older persons in the country, the National Public Policy on Aging and Old Age 2022 – 2031 was issued and adopted on May 2, 2022, through Decree 681, which was signed by 13 Ministries and 3 Administrative Departments. Administrative officers have the task to develop the objectives set out in the Policy throughout the national territory.

Additionally, there are other initiatives that can be highlighted:

□ **UNIVERSAL PERIODIC REVIEW (UPR)**

In the National Report of the Republic of Colombia, presented within the framework of the fourth cycle of the UPR, in August 2023, it was mentioned under subtitle Q. Reduction of Poverty and Extreme Poverty (Recommendations 120.99; 120.103; 120.100; 120.101), information related to the "*Colombia Mayor*" program. This program was created for the protection of older adults without a pension or living in extreme poverty; likewise, a pension reform project is underway so that older adults who do not receive a pension and/or resources from social programs will be beneficiaries of a transfer. On November 7, 2023, the Report was supported, and recommendations were made on the care of the elderly.

□ **INTER-AMERICAN CONVENTION ON THE PROTECTION OF THE HUMAN RIGHTS OF OLDER PERSONS**

Law 2055 of 2020 approves this Convention; declared enforceable by the Constitutional Court through Judgment C-395 of 2021. The instrument of accession to the Convention was deposited in September 2022. Subsequently, in September 2023, the Colombian State appointed the representatives of the Follow-up Mechanism to the Convention.

□ **PROTOCOL OF SAN SALVADOR**

In the National Report of the Fourth Cycle of the Republic of Colombia on compliance with the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights,

"Protocol of San Salvador", presented in August 2023, it is indicated that the Ministry of Health and Social Protection, as the governing body, led the process of updating and issuing the National Public Policy on Aging and Old Age 2022-2031 (Decree 681 of 2022). It also provides information on care and assistance programs for the elderly, including pensions and subsidies, among others.

□ **XLI MEETING OF HIGH-LEVEL AUTHORITIES ON HUMAN RIGHTS OF MERCOSUR AND ASSOCIATED STATES**

At the May 2023 Plenary Meeting in Argentina, the intervention of Colombia, as an Associated State of MERCOSUR, announced the deposit of the instrument of accession to the Inter-American Convention on the Protection of the Human Rights of Older Persons; and mentioned the National Public Policy on Aging and Old Age 2022–2031.

**Have those engagement resulted in positive impact in strengthening the protection of the human rights of older persons? Please elaborate. (500 words)**

The report highlights the progress and achievements for the period 2022 in the development of the 6 strategic axes of the as follows:

1. Overcoming the economic dependence of older persons,
2. Social inclusion and citizen participation of older persons,
3. A life free of violence for older persons,
4. Comprehensive health care, dependency care, and organization of care services,
5. Healthy aging for a life independent, autonomous, and productive in old age
6. Education, training, and research to face the challenge of aging and old age and the 25 lines of action, which will have their greatest resolution and expression starting in 2024 when the implementation of the 119 concerted actions and the monitoring of them will begin and progress will be made with the updating or issuance of the Aging and Old Age Policies to territorial level and the implementation of their action plans.

On the other hand, through the execution and implementation of the Social Protection Program for the Elderly, a positive impact has been achieved in strengthening the protection of the human rights of older persons through the effective delivery of monetary transfers, which guarantees each beneficiary a monthly income of \$80,000 for their

support; In this way, the program in question allows the intervention of households whose family nucleus is made up of older adults and allows the identification of those adults who require intermediate and/or special attention, such as, for example, payment at home of the subsidy, due to physical or territorial limitations that prevent the movement of older adults.

**2. What other options can be considered to strengthen the protection of older persons? Please elaborate. (500 words)**

The options to strengthen the protection of older persons that are considered by Social Prosperity are being identified through the structuring and subsequent implementation of a pilot to determine the social component based on the lines of action to expand capabilities, strengthen social fabric and expand opportunities with the following objectives:

- Promote the active role of older persons in society.
- Promote dissemination actions and access to rights.
- Generate and strengthen individual and collective capacities.
- Promote self-care, care and protection actions.
- Promote their participation in community meeting spaces and public policies, plans and programs.

**3. If applicable, what is your assessment on the protection of the human rights of older persons according to regional and international instruments? (500 words)**

It is evident that regional and international technical and regulatory advances within the framework of International Human Rights Law have established consensus to protect the human rights and fundamental freedoms of older people, transcending the traditional demographic and physiological conceptualization. Additionally, they constantly seek to give steps towards the inclusion of an approach of active and healthy ageing, considered as an evolutionary process throughout their course of life, with differential contours from the sociocultural construction to recognize the factors that, together with attention in health, affect how the Colombian populations age.

Given the exponential growth of the causes and external factors that influence the increase in poverty in Colombia, the National Government



through its entities has implemented various plans, programs and projects that promote the reduction of poverty and compliance with international human rights treaties ratified by Colombia. Now, although various measures have indeed been implemented and adopted at the national and international level for the protection of the rights of older persons, constant and dynamic work is required about this population, understanding that the social conditions are dynamic and that they are diverse.