

## EQUALITY AND NON-DISCRIMINATION

### **1. Does your country's constitution and/or legislation (a) guarantee equality explicitly for older persons or persons of all ages and (b) forbid discrimination explicitly on the basis of ages? If so, how is the right to equality and non-discrimination defined?**

The Political Constitution of the State of Chile does not explicitly guarantee the equality of the elderly, nor expressly prohibits non-discrimination by age. However, Chile's Constitution makes no distinction between different groups of the population and establishes generic measures of equality before the law, for all people.

In Chilean law, as of 2012, there exists Law N° 20.609 that "establishes measures against discrimination". Its first Article states that its objective is to establish a judicial mechanism to effectively restore the rule of law, whenever an act of arbitrary discrimination is committed. The second Article, which defines discrimination, points to age as a category suspected of discrimination. Article 3 of the Law establishes an arbitrary non-discrimination action.

### **2. Does your country produce information about discrimination against older persons in the following or other areas? If so, what are the main findings?**

Employment, access to goods and services, social protection, health care, social care, justice, inheritance, decision-making and autonomy, living environment, other areas, please specify.

In Chile there is an autonomous institution, created by Law N° 20.405, denominated National Institute of Human Rights, INDH. Annually, the NHDR prepares an Annual Report on the human rights situation in Chile. None the less, the Sixth Annual Report on Human Rights in Chile does not address the specific situation of older persons or their discrimination in various areas.

The report can be downloaded at the following link:

<http://www.indh.cl/informe-anual-situacion-de-los-human-rights-en-chile-2016>.

### **3. Is there information available about inequality of opportunities or outcomes experienced by older persons in the following areas?**

Availability of, Access to and quality of health care services

Financial services

85.2% of the Elder people participate in the public health system. On the other hand, only 8.1% members of the private system, vs. 16.5% of the people between 0-59 years.

Considering that, in general, private health system is better in what respects to quality of services, elder people suffer disadvantage in that aspect. That disparity can be explained mainly because of lower income in the elder people, that prevents them from purchasing private services.

Source: CASEN Survey, 2015.

In spite of the above, there are several programs and plans designed specifically for the elder people. Those policies point mainly to periodically evaluating their health conditions, through the Preventive Medical Exam. Additionally, there is a public policy that encompasses a series of programs of long term care for elder who suffers of dependency and disability.

### **4. Are there any areas where differential treatment based on old age is explicitly justified?**

**Examples:**

- Access to goods: There is no differentiated treatment.
- Mandatory age of retirement: In Chile there is no compulsory retirement age, the right to retirement is established at 65 if male and at 60 if female.
- Age limits in financial services and products: It is common to see age limits, for application of mortgage loans that allow the financing of housing, at 60 or 65 years, also there is age limits in home or health insurance.

- Age-based benefits: The State of Chile has a National Service for the Elderly, which has a series of programs aimed specifically at the elderly population.

The information website is: [www.senama.cl](http://www.senama.cl)

## **NEGLECT, VIOLENCE AND ABUSE**

### **1. In your country, are there specific studies or surveys (from governmental, non-governmental or academic sources) on violence, abuse and neglect experienced by older persons?**

In Chile, there is no national study on violence and elder abuse. However, SENAMA conducted a qualitative study in the Metropolitan Region during the year 2013. The publication was denominated "The mistreatment towards the elderly people in the Metropolitan Region, Chile".

The research can be downloaded at the following link:

[Http://www.senama.cl/filesapp/EI%20maltrato%20hacia%20las%20personas%20mayores.pdf](http://www.senama.cl/filesapp/EI%20maltrato%20hacia%20las%20personas%20mayores.pdf)

### **2. (a) What forms of violence, abuse and neglect (e.g. physical, psychological, financial or other) are registered? What is the setting in which they occur (i.e. residential and non residential)? Is there information about the type of perpetrators?**

Regarding the types of mistreatment detected by SENAMA: The highest number corresponds to abandonment (436), followed by more than one type of mistreatment (404), and psychological (259). In the year 2016, 465 referrals arrived from Family Courts. About the perpetrators (aggressors), exact data is not handled, however, it is mostly observed in the immediate family environment, especially the children, as well as the caregivers of the elderly.

### **(a) Does violence, abuse and neglect particularly affect specific groups of older persons? If so, which groups and how?**

Although situations that violate the rights of older people are observed transversally, it is important to emphasize the groups of older persons of advanced age (over 80 years), where there is a greater probability of abuse, violence and neglect, associated to dependence and stress of caregivers. Likewise, the group of elderly people in extreme social vulnerability and poverty.

### **3. Does your country's legislation explicitly address issues of violence, abuse and neglect against older persons? If not, what legislation applies to such issues in the context of older persons? Does this legislation sufficiently address the full range of violence against older persons?**

As of 2010, through Law N° 20.427, 3 legal bodies were modified in order to include more explicitly the mistreatment of the elderly in national legislation, an amendment to Law N° 20.066 on Domestic Violence, another amendment to Law N° 19.968, of Family Court and the Criminal Code. Regarding the rest of the situations of violence, they are overseen by the general law.

### **4. What legislation exists to protect older persons specifically against financial abuse, including inheritance abuse?**

The only legislation specifically dedicated to protecting the financial abuse of older people relates to a legal amendment promoted by SENAMA, which modified the Criminal Code. Before the amendment, its Article 489, provided an exemption of criminal responsibility for the offenses of theft, damage and defraudations to the direct relatives of the person. The existence of this exemption of responsibility, contemplated a special situation of lack of protection of the elderly, mainly for the crime of defraudations (fraud). The legal rule was

modified in the sense that when the victim of these crimes is an older person, the close relatives who commit them have criminal responsibility.