

Guiding Questions for Defining the Normative Content of the Issues Examined at the Tenth Working Session of the Open-ended Working Group: Social Protection and Social Security (including social protection floors)

Definition

1. What is the definition of the right to social security and social protection (including social protection floors) for older persons in the national legislation in your country? Or how should such a right be defined, considering existing national, regional and international legal framework? *¿Cuál es la definición del derecho a la seguridad social y la protección social (incluidos los pisos de protección social) para las personas mayores en la legislación nacional de su país? ¿O cómo debería definirse dicho derecho, considerando el marco legal nacional, regional e internacional existente?*

The right to social security is recognized in various international law instruments that are enshrined in the constitution in Argentina.

In the Argentine Constitution, the right to social security is defined as a comprehensive, inalienable right and as a benefit that must be guaranteed by the State. According to the definition in the Inter-American Convention on Protecting the Human Rights of Older Persons (CIPDHPM), ratified by Argentina, the right to social security is a right that must be afforded to older persons in order for them to lead a decent life.

Scope of the right

2. What are the key normative elements of the right to social protection and social security for older persons? Please provide references to existing standards on such elements as below, as well as any additional elements: *¿Cuáles son los elementos normativos clave del derecho a la protección social y la seguridad social para las personas mayores? Proporcione referencias a las normas existentes sobre los elementos que se detallan a continuación, así como sobre cualquier elemento adicional:*

a) Availability of contributory and non-contributory schemes for older persons. *Disponibilidad de regímenes contributivos y no contributivos para personas mayores*

Universal Pension for Older Adults (Law No. 27,260): For individuals older than 65 who do not receive any other retirement or pension benefits.

Employee death benefits: For relatives of workers who were employed or self-employed at the time of their death.

Retiree death benefits: Spouses, cohabiting partners, or unmarried underage children may apply for this benefit upon a retiree's death.

Means-tested old-age pension (Law No. 13,478, as amended): This benefit is available for individuals aged 70 or older who have no coverage or no other means-tested benefits. The amount will be equivalent to 70% of minimum wage.

Means-tested disability pension (Law No. 13,478, as amended): Means-tested pension for individuals who can provide proof of at least a 76% reduction in their ability to work.

Means-tested pension for mothers of seven children (Law No. 23,746): Available for women with seven or more children, regardless of their age or marital status.

Discretionary pension for former political prisoners (Law No. 26,913): Available for individuals who can provide evidence of having been detained for political, labour union and/or student union activity prior to 10 December 1983.

Honorary pension for war veterans (Law No. 23,848, as amended): Lifetime benefit for war veterans and their successors and assigns.

Pension for Olympic or Paralympic medalists (Law No. 23,891): Lifetime monthly pension available for sportspeople who finish first, second or third in Olympic or Paralympic Games.

b) Adequacy of benefits to guarantee older person's access to an adequate standard of living and adequate access to health care. *Adecuación de los beneficios para garantizar el acceso de las personas mayores a un nivel de vida adecuado y el acceso adecuado a la atención médica*

All beneficiaries of the Argentine Integrated Social Security System (SIPA), in accordance with Law No. 26,425, have health care coverage provided by PAMI (Comprehensive Medical Assistance Programme) or a health care provider.

The Health Inclusion Programme (**Programa Incluir Salud**, created under Resolution No. 1862/2011) promotes access by beneficiaries of means-tested pensions to unrestricted exercise of their right to health care across the Argentine territory, and provides assistance to jurisdictions for implementation of a health planning model that enabled comprehensive medical coverage.

The following individuals may participate in this programme:

- Beneficiaries of social security pensions. Mothers of seven or more children, individuals with disabilities, individuals aged 70 or more who are beneficiaries of means-tested pensions.
- Beneficiaries of pensions under Special Laws. This category includes Malvinas war veterans, relatives of disappeared persons, Argentine Antarctica pioneers, Nobel prize or Olympic medal winners, prelates, etc.
- Beneficiaries of discretionary pensions. These are pension benefits granted by the Argentine Congress in accordance with Law No. 13,337.

c) Accessibility, including older person's coverage by social security systems, eligibility criteria, and affordability of contributions *Accesibilidad, incluida la cobertura de las personas mayores por los sistemas de seguridad social, criterios de elegibilidad y asequibilidad de las contribuciones*

- Law No. 27,360 ratifying the Inter-American Convention on Protecting the Human Rights of Older Persons.

- Argentine Constitution Article 14 bis of the Argentine Constitution provides that all forms of work are protected by the law, which ensures that workers have decent, equitable work conditions; limited hours; paid rest time and holidays; fair compensation; minimum wage, among other rights.

- Law No. [24,241](#) establishing the retirement age, among other matters.

- Law No. [27,260](#) creating the Universal Pension for Older Adults.

- Law No. [26,425](#) establishing the social security system.

- Implementation of social security payment plans which enabled the inclusion, by means of retirement pensions, of older adults who had been employed but whose employers had not made contributions. The social security payment plan was superseded by the creation of a universal pension benefit for individuals older than 65 who have not completed their required contributions to the social security system under Law No. 27,260 on Historic Compensation for Retirees and Pensioners, which establishes the Universal Pension for Older Adults (PUAM), in

addition to regularizing social security proceedings and updating retirees and pensioners' benefits.

- Social security reform enacted by Law No. [27,426](#), which amended the calculation formula whereby retirement and pension benefits are updated; it was established that they are to be updated on a quarterly basis, based on a combined system using the inflation variation percentage (70%) and the average wage increase (30%).

d) Equitable access by older persons to the enjoyment of the right to social security and social protection, paying special attention to groups in vulnerable situation. *Acceso equitativo de las personas mayores al disfrute del derecho a la seguridad social y la protección social, prestando especial atención a los grupos en situación vulnerable*

The Universal Pension for Older Adults (PUAM), created under Law No. 27,260, is a lifetime means-tested benefit for individuals aged 65 or older who are not entitled to other retirement or pension benefits and who meet the requirements set forth in said law. The amount paid is equivalent to 80% of the minimum retirement pension benefit, and is updated every time it is increased pursuant to the law on automatic updates. Beneficiaries are entitled to INSSJP-PAMI services (social and health coverage), and they may access the same family subsidies as non-means-tested retirees: child care subsidies, disabled child care subsidies, spouse subsidies, etc.

e) Participation of older persons in the design and administration of the social security system *Participación de las personas mayores en el diseño y administración del sistema de seguridad social*

At a national level, the Retirees and Pensioners' Consultative Body, created under Resolution No. 934/1996, operates within the scope of ANSES (National Social Security Administration). This Consultative Body has among its priorities institutionalizing specific forms of participation by and consultation with beneficiaries through their representatives, in order for them to convey their concerns and proposals, be a part of system management and be trained with the aim of strengthening the sector. It is made up of representatives of retiree and pensioner federations from across Argentina, and it was the first citizen involvement body in a Government agency. Presently, it has 124 regular members and 124 alternate members throughout Argentina. Representatives are elected annually by their entities. These representatives meet three times a year at national plenary meetings with the highest authorities of ANSES and its management to discuss matters relevant to the sector: social

security payment amounts, their updating, the scope of certain benefits, achievements, difficulties and/or delays in the management of all procedures carried out by the entity.

Another institutionalized entity that favours citizen involvement is based on the Law on Retirement and Pension Benefit, which provides, in the context of the establishment of the Argentine Integrated Social Security System (SIPA) (Law No. 26,425, Section 12), for the creation, within ANSES, of the Council for the Sustainability Guarantee Fund of the Argentine Integrated Social Security System, whose purpose is to monitor system resources and is comprised of two members of the Retirees and Pensioners' Consultative Body and three representatives of the most significant worker organizations, among other members.

State obligations

3. What are the measures that should be undertaken by the State to respect, protect and fulfill the right of social security and social protection for older persons, regarding the normative elements as provided above? *¿Cuáles son las medidas que debe tomar el Estado para respetar, proteger y cumplir el derecho de la seguridad social y la protección social de las personas mayores, en relación con los elementos normativos establecidos anteriormente?*

Under the Argentine Constitution, the Government is responsible for providing social security benefits in the national territory. This duty is discharged through Government entities as a whole, which are charged with establishing, by means of regulatory instruments (laws, resolutions, provisions), the rights, obligations and responsibilities of all stakeholders.

The State's responsibility in the field of social security is a constitutional mandate and it is defined as the creation of systems and mechanisms that foster social welfare by reducing social asymmetries in the context of a given society.

On the other hand, according to the provisions on social security in Article 17 of the Inter-American Convention on Protecting the Human Rights of Older Persons, ratified in Argentina by Law No. 27,360, the State must promote, within available resources, the provision of income to ensure a dignified life for older persons through social security systems and other flexible social protection mechanisms. In addition, it must seek to facilitate, through institutional agreements, bilateral treaties, and other hemispheric mechanisms, the recognition of benefits, social security contributions, and pension entitlements for migrant older persons.

Special considerations

4. What special measures and specific considerations should be considered in developing the normative content of the right of older persons to social protection and social security? *¿Qué medidas especiales y consideraciones específicas deberían considerarse al desarrollar el contenido normativo del derecho de las personas mayores a la protección y seguridad social?*

Within the regulatory framework for older persons' right to social protection and social security, there have to be mechanisms that enable an extension of coverage to non-protected communities through different benefits, as well as measures that ensure individuals' quality of life when faced with certain unforeseen circumstances.

In addition, retirement and pension benefits provide an income when individuals are no longer able to create one by themselves for one of three reasons: old age (retirement benefits), permanent disability (disability pensions), or the death of one of the household's income earners (death benefits).

On the other hand, there are special schemes in place: social security coverage for workers who have performed any task with special characteristics.

5. How should the responsibilities of non-State parties such as private sector be defined in the context of the right of older persons to social protection and social security? *¿Cómo deben definirse las responsabilidades de las partes no estatales, como el sector privado, en el contexto del derecho de las personas mayores a la protección y seguridad social?*

Implementation

6. What are the best practices and main challenges faced by your country in the adoption and implementation of the normative framework on social security and social protection for older persons? *¿Cuáles son las mejores prácticas y los principales desafíos que enfrenta su país en la adopción e implementación del marco normativo sobre seguridad social y protección social para las personas mayores?*

Social security coverage in Argentina reaches 97% of older persons, according to the National Social Security Administration (ANSES). This means that nearly all older persons residing in Argentina receive a regular or means-tested (old age) pension and/or retirement benefits which, in addition to ensuring an income, provide medical coverage in line with the social security system. It should be noted that social security coverage in Argentina is among the highest in the region, and it is fundamental to fund old age care services.

TRANSLATED FROM SPANISH. Buenos Aires, 28 November 2019.

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