

## Member State- Portugal

### QUIZ

United Nations Open Working Group on Ageing: 11th Session(2020)

### Focus Area: Access to Justice

The national legal framework does not contemplate any law or specific policies concerning old people's access to Justice, and there are no specific legal mechanisms, either judicial or non-judicial, for the elderly.

In case of complaint or objection against the State, they may address the Ombudsman, like any other citizen, and there is a special phone line (800 20 35 31).

Also, like any other citizen, they may access to alternative resolution means concerning litigations, i.e. mediation, consumer conflicts arbitration or Justice of the Peace. The access to judicial courts is strongly conditioned by its high costs.

Policies or programs of preferential treatment for the elderly in judicial cases, or free specific judicial support are not known.

### National judicial and political framework

**Question:** Under the national policies and legislation, how is the access to justice guaranteed to the elderly? (For instance, is there any law or specific policy? Does the national ageing policies /strategy refer to access to Justice? Is there in the law any age limit, which may prohibit the elderly from also acceding to Justice?)

**Answer:** The access to Justice is universal, without age limit, but it is very expensive, slow and often difficult for physical access. Courts may be very distant for people to access to them.

In spite of being universal, there are still evident signs of prejudice against women, ethnic minorities and transsexuals. It is therefore necessary to focus on the further overcoming of these discriminatory deviations.

**Q:** Which judicial and extra-judicial mechanisms are there, to enable the elderly to complain or claim for compensation for their rights denial? (i.e., do elderly who suffered abuse have access to alternative mechanisms, such as mediation, to solve litigious cases?)

**A:** Beyond the judicial courts themselves, there is a net of easier and closer instances, to solve and judge minor cases, such as the Justice of the Peace and the centers of arbitration and mediation of consumer conflicts. However, this has a reduced impact and limited trust for the population.

The elderly who suffer abuse may be supported by social care services and security forces, but as to compensation for their violated rights, they will need court action.

## **Availability, Accessibility, Equality and Responsibility**

**Q:** Do elderly people in your country face specific challenges in the access to Justice? (for example, biased judicial decisions based on age stereotypes, lack of legal assistance, lack of knowledge of their rights, long waiting times, lack of non-judicial mechanisms, lack of accessible courts, high costs of the legal procedures, impossibility of accessing justice without family consent, fear, fragility, etc)

**A:** In our country, there is neither specific legislation or policies for elderly people to accede to justice, nor any discrimination or age limit. The existing legislation is the same for the whole population, without any age distinction.

There is, of course, some limits in the access to Justice by the elderly, due to their mobility difficulties, family constraints and other weaknesses (mainly the costs and the slow pace of the case treatment).

**Q:** Are there policies/programmes to grant impartiality in the justice system and to avoid the negative effect of ageing? (for instance, vocational training of justice professionals, etc.)

**A:** Recently, it was created the figure of the “*maior acompanhado*”, an adult who can choose a person to support him/her in the defense of their rights and in the management of their daily life. Although it is considered an urgent process, its development/treatment in the courts may last for months/years.

## **Focus Area: Right to work and access to the work market**

As APRe! is an association for retired people and pensioners, it is not directly involved in work relationships and access conditions to the labour market.



However, in spite of not being a direct actor, **APRe!** is concerned about that issue and the workers' difficulties, in a line of intergenerational solidarity and of safeguard of their future rights in retirement.

For this reason, our answers to the following questions correspond to our knowledge and engagement on these matters.

### **Legal and political framework**

**Q:** Are there direct barriers towards labour or towards old people's access to labour market, of legal nature or stated in collective conventions? (age for compulsory retirement, employer's right to cancel a work contract beyond a certain age? Please, be specific and point out the relevant provision).

**A:** There is no legislation to prevent the elderly from working, as well as there is no limit to maintain the registration in the Social Security services and to keep the corresponding benefits. Also, it is not compulsory to have a specific insurance for the working elderly; the insurance companies do limit those insurances, by increasing their prices.

The collective agreements cannot establish age restrictions, but the fact is that the employers use many practices to limit the older workers' employment continuity and to force their exit.

**Q:** What other obstacles do older employees face to work or search for a job? Those might be their aging process during the contract, lack of support by the Public Employment Services, no access to training and lifelong learning, lack of workplaces to enable a sustainable job? Outline briefly, please.

**A:** The biggest obstacles against older people's employability are the lack of offer by employers and their refusal to accept those workers as labour force.

### **Availability, Accessibility, Acceptability and Quality**

**Q:** Are there any programmes to guarantee that the elderly may remain in or access to the labour market? (specific support and training measures, incentives for personnel diversity, etc.) Describe.

**A:** There are no real programmes to support maintenance in workplaces. Some vague measures to support part-time jobs cannot be seen as a programme.

**Q:** Are there any programmes to adapt workplaces to people's necessities? (minor handicap, personal circumstances). Describe, please.

**A:** Yes, there are, but still insufficient for their necessities. Some measures have been implemented, mainly in the public sector, to encourage hiring people with special needs. In the private sector, those situations are clearly scarce.

**Q:** Are the Public Employment Services available and equipped to answer to older job candidates? Describe, please.

**A:** As there is no job offer, this point is irrelevant.

**Q:** Which protections are there to guarantee that older workers may get fair and favourable working conditions? (wages, promotion, training, no discrimination, etc)

**A:** Although there is legal protection, the fact is that older workers do not benefit from fair conditions, because practice reveals discrimination and tends to exclude older people.

## **Equality and non-discrimination**

**Q:** Are there barriers, as described above, which specifically harm certain elderly subgroups? (for instance, women, handicapped workers, foreigners, refugees, people with caring responsibilities, LGBT people, gypsies, etc.)

**A:** Women and minorities tend to be more affected.

## **Solutions and compensations**

**Q:** How can workers complain or get any compensation if they are prevented from accessing to the job market? Are there specific barriers in terms of age to obtain any compensation?

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**A:** All workers can appeal to legal mechanisms to fight for their rights, regardless their age, which is not a discrimination factor. However, in practice, justice may be slow and inefficient.

**Q:** Are older workers informed about how to submit a complaint or how to obtain compensation? Do they have access to legal advice on the matter?

**A:** There is no discrimination on age groups. Also, there is not broad legal advice, but some trade unions provide legal advice to their members.