



**Guiding Questions for Focus Area:**  
**Right to Work and Access to the Labour Market**  
**(Vietnam Association of the Elderly's Response)**

**National Legal and Policy Framework**

**1. What are the legal provisions and policy frameworks in your country that recognise the right to work and access to the labour market by older persons?**

The legal provisions and policy frameworks in Vietnam on the right to work and access to the labor market by older persons are recognized in:

- **The Law on the Elderly 39/2009/QH12:**
  - **Article 3. Rights and obligations of the elderly (Section e)**
    - e/ To be provided with conditions to work in suitability to their health and professions and other conditions to bring into full play their role.
  - **Article 24. Responsibilities to promote the elderly's role**
    - 1. The State shall apply the following measures so that the elderly bring into full play their role suitable to their respective capabilities:
      - b/ Creating conditions for elderly scientists and artisans and other elderly with special skills and experiences and aspirations to continue making contributions:
      - c/ Providing preferential credit loans to the elderly who are directly involved in production and business activities to increase their incomes and alleviate poverty;
    - 2. Agencies, Elderly Associations, other organizations, families, and individuals shall create conditions for the elderly to carry out activities of promoting their role.
- **The Labor Code 10/2012/QH13**
  - Section 2. ELDERLY EMPLOYEE**
    - Article 166. Elderly employee**
      - 1. The elderly employee is the person who continues working after age as prescribed in Article 187 of this Code.
      - 2. The elderly employee is entitled to shorten daily working hours or apply the regime of shorter hours working.
      - 3. The final year before retirement, the employee is entitled to reduce the normal working hours or apply the regime of shorter hours working.
    - Article 167. Employment of elderly employee**
      - 1. When required, the employer may agree with the healthy elder employee to prolong the term of the labor contract or sign the new labor contract under the provisions of Chapter III of this Code.

2. Once retired, if working under a new labor contract, in addition to the interests under the pension regime, the elderly employee still enjoys the interests agreed upon in labor contracts.

3. Do not employ the elderly employee to do the hard, hazardous and dangerous job adversely affecting the health of the elderly employee, except for the special cases as prescribed by the Government.

4. The employer is responsible to pay attention to and take care of the health of the elderly employee at the workplace.

**2. What are the challenges faced by older persons for the realization of their right to work and access to the labour market in your country?**

According to Clause 1, Article 166 of the 2012 Labor Code, elderly laborers are those who continue to work after 60 years of age for men and 55 years for women. The challenges faced by older persons for the realization of their right to work and access to the labor market in our country are as follows:

- There are few government programs and organizations exclusively for older persons or the involvement of older persons (which takes away valuable resources);
- Vietnam does not have any job placement centers or job placement platforms for the older people. Most of them have to look for jobs themselves and most of the jobs are not relevant to them.
- There is no vocational training center for older people to be updated or learn new knowledge and skills to be able to continue to participate in the labor market
- The realization of laws and policies on work for older people is still poor. How to make the work environment age-friendly is a challenge.
- The current retirement age is 60 for men and 55 for women has created inequality for women as they have to stop working earlier and thus their pension is much lower compared to men.
- Bad health condition is also a challenge for older people to continue to work
- A part of society has a misconception that older people is frail and thinks:
  - That the older people are cared for by the family, the older people cannot work (in fact, the older people are taking care of their families, children, grandchildren and continue to involve in income-generating activities until they can not do so).
  - That older persons do not need to work, do not need to borrow capital, transfer science and technology (in fact, only 32% of older persons think that their main income is from their children, most older persons still have to work).
  - That the older people are a high-risk group so they do not lend to older people (in fact, older people are the group with the highest repayment rate).

**3. What data, statistics and research are available regarding older persons engaged in informal work, particularly older women, including conditions of their work and economic value?**

- According to the General Statistics Office of Vietnam in 2018, the number of older people was 12.86 million, accounting for 13.58% of the population. The labor force of older people reaches 4.78 million people, accounting for 8.67% of the labor force nationwide.
- It is a common situation that old women undertake unpaid work in Vietnamese families: Main performers of housework; main performers of childcare and old, sick people in the family. Meanwhile, for older men, in

- their daily life, the wife is the main person who takes care of them, accounting for 64.2%, followed by daughter-in-law 13% and daughter 10.9% (VNAS, 2011).
- Research available: no research focused on older people in informal work so far, but there are some researches mentioned about this, such as:
    - Vietnam National Ageing Survey (VNAS), 2011
    - GSO-ILO 2016 report on informal employment in Vietnam: The proportion of informal economy workers was high in the 55 and over age group (74.4 percent); This is because they prefer informal jobs or could not find formal jobs due to their old age or retirement.

## Availability, Accessibility, Acceptability and Quality

### 4. What steps have been taken to ensure the access of older persons to the labour market including through physical accessibility, access to information about employment opportunities, training and the provision of appropriate workplace accommodations?

- It is not easy for older people to find a job. Most of them have to look for a job by themselves because there is currently no recruitment information channel for this group of workers. On current recruitment websites, the limit age that employers require is usually between 18 and 35 years old. Employees in the age group of 45 and older have few job options and the group aged 60 and older makes it increasingly difficult to get a job through formal recruitment channels.
- At the national level, the government asked MOLISA to review laws and policies to remove age barriers to enable older people to assess the labor market. In addition, some initial discussions at the national level about age-friendly communities and cities. However, almost nothing has done so far in this area.

### 5. What steps have been taken to ensure the availability of specialised services to assist and support older persons to identify and find employment?

The media shows that it is necessary to change the minds of the people about creating jobs for the older people, abandoning the old way of thinking and moving to the future in which older people have the right to join the labor force. At the same time, promoting the role of production labor, the social role, as well as the intelligence of older people, ensure benefits for everyone. This is not a new problem to the world but poses many challenges for Vietnam and Vietnam must turn this into an opportunity. In short, Vietnam has not taken any steps in this area yet.

### 6. What good practices are available in terms of ensuring the older persons' enjoyment of their right to work and their access to the labour market?

Older people are those who have the experience and skills to work best that have accumulated over time. Furthermore, they are aware of compliance, a better understanding of laws; at the same timeless labor accidents. From the fact of the labor market, there are many jobs that older people can do without affecting young people. Specifically, they can undertake jobs such as security guards, housekeeping, accounting, editor...Accordingly, the Ministry of Labor, War Invalids and Social

Affairs (MoLISA) is now planning to organize employment exchanges for older people to take advantage of promoting and creating conditions for them to contribute to society. When businesses and organizations need to use older human resource, they can contact the employment service center for supplies. By entering the labor market, older workers not only create a new position but also ensure a quality of life from the source of employment income.

**7. What protections are available to ensure older persons enjoy just and favourable conditions of work, including fair wages and equal remuneration for work of equal value, safe working conditions, both in the formal and informal sector?**

- **Decree No. 45/2013/CP of the Government stipulates:**

Article 11. Using elderly laborers to do heavy, hazardous and dangerous jobs:

1. The employment of elderly laborers to do heavy, hazardous or dangerous jobs may be effected only when the following conditions are fully met:

- a) Experienced and highly skilled elderly employees with seniority in full 15 years or more; be granted a certificate or vocational certificate or be recognized as a craftsman in accordance with law;
- b) Elderly employees who have good health according to the standards issued by the Minister of Health for jobs and jobs;
- c) Timely use; not more than 05 years for each employee;
- d) Must have periodic health examination at least 02 times a year;
- e) There is at least 01 employee other than the elderly employee working together.

2. Based on the provisions of Clause 1 of this Article, ministries and ministerial-level agencies shall specify job titles, heavy, hazardous and dangerous jobs and specific conditions for each special case of employing people. elderly employees in the fields, sectors and trades under their management.

Elderly workers often gain a lot of experience but they suffer from physical decline, so setting these privileges is necessary. In case the employer violates the regulations on employment of elderly employees, he/she may be administratively sanctioned or examined for other liabilities in accordance with law.

## **Equality and non-discrimination**

**8. In your country, is age one of the prohibited grounds for discrimination in relation to work and access to the labour market, including in older age?**

- The Law on Older people 39/2009/QH12  
Article 9: ...discrimination against older people is prohibited.

- **The Labor Code 10/2012/QH13**

Article 9. Prohibited acts:

5. Forcing elderly people to work or do things in contravention of law provisions.

- **The Employment Law 38/2013/QH 13**

Article 4. Principles of employment:

1. Ensuring the right to work and the freedom to choose employment and the workplace.
2. Equality of job opportunities and income.

3. Ensuring working in labor safety and labor hygiene conditions.

However, there is no specific regulation saying that age is one of the prohibited grounds for discrimination related to work and access to the labor market, including in older age..

## **Remedies and Redress**

### **9. What mechanisms are necessary, or already in place, for older persons to lodge complaints and seek redress for denial of their right to work and access to the labour market?**

Vietnam Association of the Elderly (VAE), as an organization representing older people in Vietnam, has many channels to listen to the aspirations and complaints from older people, of all types. VAE is mandated to raise voice to protect and represent older people's wishes. VAE has set up legal advice corner on their website to provide legal support to older people. However, almost nothing was done related to older people's right to work and access to the labor market.

Currently, Vietnam still has no mechanisms for older people to complain and find a solution to the denial of the right to work and access to the labor market.

To remedy this situation, the Government of Vietnam needs to specify the mechanisms so that older workers can appeal when denied the right to work and to access the labor market.