

## «Right to Work and Access to the Labour Market»

### National Legal and Policy Framework

1. In 2016, the Strategic Action Plan in the Interests of Older Citizens in the Russian Federation until 2025 (hereinafter – the Strategy) was adopted. One of the main goals of the Strategy is to create a number of conditions for preventing discrimination against older citizens and encouraging them to stay in the labour force longer. The problem of securing employment for older people, regarding the gradual increase of the retirement age following the recent Russian pension reform, which introduced new legal retirement age (65 for men and 60 for women), is of particular relevance.

With the aim to promote employment of persons aged 50 and older as well as persons of pre-retirement age the Government of the Russian Federation issued the Order No. 742-r as of March 26, 2020 “On approval of the Special Program of Professional Training and Additional Professional Education for Persons Aged 50 and Older as well as Persons of Pre-Retirement Age for the Period till 2024”.

The Program provides the organization of vocational training, additional vocational education to acquire or develop existing knowledge, competencies and skills that ensure competitiveness and professional mobility in the labor market. Education takes place with or without discontinuing work activities. Distance learning technologies, variations in the duration of educational programs, e-learning, and the capabilities and experience of the “Worldskills Russia” Union are used, including the annual professional skills championships by Worldskills standards named “Skills of the Wise” for people over 50 years of age and those of pre-retirement age.

Every year, starting from 2020, at least 75,000 people aged 50 and over, as well as those of pre-retirement age, will be involved in vocational training and additional vocational education activities, of which 25,000 people will use the infrastructure of the “Worldskills Russia” Union.

Thus, by the end of 2024 measures in vocational training and additional vocational education will reach at least 450 thousand people, of which, starting from 2020, at least 250 thousand people aged 50 and older, as well as persons of pre-retirement age will be trained within the competence of the employment services of the Russian Federation constituent entities, with at least 125 thousand citizens of the above-mentioned categories having used the infrastructure of “Worldskills Russia”.

The implementation of the Program will create economic and social conditions that prevent discrimination against citizens aged 50 and older, as well as persons of preretirement age, and will encourage them to continue their employment both in their previous jobs and in new jobs in accordance with their professional skills and physical capabilities.

2. The Labour legislation of the Russian Federation does not contain any restrictions for the older persons. Nobody may be subject to restrictions in labour rights and liberties or gain any advantages, including based on age.<sup>1</sup>

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<sup>1</sup> Article 3 of the Labour Code of the Russian Federation

3. There are 1.8 million employed men born in 1959-1963, and 2.2 million employed women born in 1964-1968 in Russia. Thus, on the whole, there are 4 million of employed pre-retirees.

As of January 1, 2020, there were 36.1 million retirees in the Russian Federation (36.4 million in 2019), and the share of working retirees in the total number of retirees was 19.6% (19.4% in 2019). Thus, every fifth Russian continues to work after retirement.

The largest number of retirees who applied to employment services in search of a career was registered in Vladimir, Kaluga, Smolensk, Moscow Regions and Khabarovsk Province. The smallest number of such retirees was registered in Ingushetia, Chechnya, Kabardino-Balkaria and Dagestan.

As of January 1, 2020, there were 10.1 million pre-retirees in the Russian Federation, the share of working pre-retirees in the total number of pre-retirees amounted to 40%.

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

4. In 2016 the Strategy and the Action Plan for 2016 - 2020 to implement the First Stage of the Strategy were adopted providing vocational training (with the assistance of the state Employment Service) for citizens of retirement age. In all regions of Russia Employment Services maintain regional bank of vacancies as well as the all-Russian bank of vacancies, which is available on the web-portal "Job in Russia".

5. Regional banks of vacancies and the all-Russian bank of vacancies are maintained by the Employment Service. They are obliged to register any citizen, including unemployed pensioners, for the purpose of finding a suitable job.<sup>2</sup>

6. In Moscow since 2019 the "Pilot Program of Vocational Training and Additional Professional Education of Citizens of Pre-Retirement Age"<sup>3</sup> has been implemented. If it proves its effectiveness the program will be extended to other regions of Russia. Also, the Labour legislation provides for signing a fixed-term employment contract with old-age pensioners.

7. The Ministry of Labour of the Russian Federation updated personalized information on people of retirement age at large enterprises and put under strict control their dismissals, including staff reduction.

The Russian legislation has been amended to introduce the following additional measures for protection of the rights of older persons to work: criminal liability for refusal of employment on the ground of pre-retirement age; employed pensioners are entitled to unpaid leave for up to 14 calendar days; they have the right to take a leave at any time convenient for them in case they are participants of the Great Patriotic War II and/or combat veterans; once a year employees of pre-retirement age are entitled to two working days off for health examination with retaining the position and a daily average payment. In the application in case of dismissal on their own it is enough to indicate that the employment contract is terminated due to retirement, and specify the final date of work.

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<sup>2</sup> According to Para 3 of Article 3 of the Law of the Russian Federation № 1032-1 as of April 19, 1991 "On Employment of the Population in the Russian Federation" persons receiving pension for ageing or for the length of service cannot be recognized as unemployed. However, according to Article 2 of the same Law, such citizens are not considered as being employed.

<sup>3</sup> approved by the Resolution of the Government of the City of Moscow № 436-PP as of April 26, 2019

## **Equality and non-discrimination**

8. Administrative and criminal liability is established for unjust dismissal of persons of pre-retirement age (for discriminatory reasons).

In accordance with Article 144.1 of the Criminal Code of the Russian Federation, the unjustified refusal to employ a person and unjustified dismissal from work on the grounds of reaching retirement age is subject to a fine of up to two hundred thousand rubles or in the amount of the salary or other income of the convicted person for a period of up to eighteen months or to compulsory labor for up to three hundred and sixty hours.

## **Remedies and Redress**

9. Older persons have the right to lodge a claim to court to seek compensation for material and moral damage. Compensation for moral damage can be reached by out-of-court settlement between an employer and an employee.

## **«Access to Justice»**

### **National legal framework**

1. According to the legislation of the Russian Federation, older persons have the right to challenge a violation at court and to have recourse to the courts with a claim for compensation. For out-of-court settlement, an older person shall make a request to a designated officer of a supervisory body. If a person is not satisfied with the answer received, he/she shall submit a complaint to the High Commissioner for Human Rights in the Russian Federation.

### **Availability**

2. Within the federal target program called “Development of the judicial system for the period 2002-2006” the State Automated System “Justice” was established in the Russian Federation. It started functioning in 2006 and is available in general courts situated in both cities and remote countryside areas. A complainant can bring an appeal before the court as an electronic document, through filling special form published on the official court web site by the use of electronic digital signature.

### **Accessibility**

3. Ensuring transparency and affordability of justice are key targets of the program “Development of the judicial system for the period 2013-2020”. Information desks providing data for citizens are being placed in reception centers of the courts. People are provided with an access to the information regarding the courts’ activities. The right of older persons to get free effective legal assistance is guaranteed, the conditions for raising the level of social security of older persons, as well as for providing access to justice are being created (see Federal law as of 21 November, 2011 No.324-FZ “On Free Legal Aid in the Russian Federation”).

4. The citizens of the Russian Federation receive legal assistance regardless of their age. In cases specified by law, the legal assistance may be provided free of charge, in particular to older persons and persons with disabilities residing in institutions; disabled individuals of first and second degree; low-income citizens; veterans of the Great Patriotic War, Heroes of the Russian Federation, Heroes of the Soviet Union, Heroes of Socialist Labor, Heroes of Labour of the Russian Federation.

5. One of the most serious problems victims of crime (regardless of their age) face is an unreasonable refusal to institute criminal investigation. As a result, the victim does not receive the protection guaranteed by law; his/her right to access to justice is violated. The material and moral damage inflicted on them is not compensated.

6. The legislation of the Russian Federation provides that a citizen has the right to have his/her case examined by the jury regardless of their age (previously, qualified age for men was below 65). With the introduction of the State Automated System “Justice”, it became possible to file a case in electronic form, as well as to receive legally relevant documents from the court signed with an enhanced qualified electronic signature of a judge.

### **Equality and non-discrimination**

7. Russian legislation provides for the possibility of granting of deferment or installment plan for the payment of state duty (often exceeding the amount of the monthly old-age pension) on property claims, duty exemption for pensioners receiving pensions granted in accordance with the pension legislation of the Russian Federation.

The legislation of the Russian Federation provides for the possibility of granting a deferral or installment of payment of state fees when submitting an application of a property nature to a person whose property status does not permit to fulfill the obligation to pay state fees at the stage of application to court, which is aimed at ensuring accessibility of justice and realization of the right to judicial protection, one of the goals of which is the timely restoration of violated rights and legitimate interests of the person concerned.

In addition, plaintiffs who are retirees receiving pensions assigned in accordance with the procedure established by the pension legislation of the Russian Federation, are exempt from payment of state duty on property claims against the Pension Fund of the Russian Federation, non-state pension funds or against federal executive bodies that provide pensions to persons who have performed military service.

8. There were adopted the Concept of the Federal Target Program “Development of the Russian Judicial System for 2013—2020 years” and established the State Automated System of the Russian Federation “Justice”, which has as its major objective to decongest the courts.

### **Accountability**

9. Guarantees of the independence and impartiality of the court are enshrined in Russian legislation<sup>4</sup>, any extra-procedural appeals from anyone in cases pending before the

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<sup>4</sup> In the Constitution of the Russian Federation, Federal Constitutional Law № 1-FKZ «On the Judicial System of the Russian Federation» of December 31, 1996; Federal Constitutional Law № 1-FKZ «On Courts of General Jurisdiction in the Russian Federation » of February 7, 2011; Russian Federation Law № 3132-1 «On the Status of Judges in the Russian

court shall be made available to the public by posting information on the official website and are not grounds for carrying out procedural actions or making procedural decisions on cases. Judicial protection of human rights and freedoms is ensured by competent and independent justice, carried out on the basis of fairness and impartiality.

For the period 2020-2021 the High Commissioner for Human Rights in the Russian Federation received around 2,000 complaints from senior citizens or citizens of pre-retirement age, constituting 4% of the total number of complaints. They were devoted to the pension, labour, housing and medical issues. Following investigations, conducted by the High Commissioner together with procuratorial and executive authorities assistance was provided for the exercise of rights in respect of the 17 complaints received. Thus, the rights of citizen M. to receive security retirement benefits were restored; the insurance period was recalculated in order to award a pension to citizen L.; citizen B. was reinstated on the list for the housing subsidy for the acquisition of housing.