



ARGENTINA
DEFENSORÍA DEL PUEBLO DE LA NACIÓN
NATIONAL HUMAN RIGHTS INSTITUTION
Social inclusion

In Argentina, a number of legal provisions and measures have been adopted that explicitly focus on older persons who are marginalised on the grounds of their sex, disability, race, ethnicity, origin, religion, economic and other status. Decree No. 2741/91 is one of these main provisions, the objective of which is to ensure social security benefits for older adults. The *National Social Security Administration* (ANSES, in Spanish), created by this rule as a decentralised body within the scope of the Ministry of Labour and Social Security, is empowered to manage and control funds collected from the *National Pension System* – for self-employed workers and employees -; state subsidies and family allowances; and also from the *National Employment Fund*. ANSES is entirely responsible for verifying compliance with the obligations linked with these resources.

As regards the right to health, it is worthy of note that Argentina houses the largest healthcare provider for older adults in the region, i.e. the *National Institute of Social Services for Retirees and Pensioners* (INSSJP-PAMI, in Spanish). Created by Law No. 19.032, it has nearly six million beneficiaries.

Concerning the legal framework whereby disability is addressed, mention should be made of Law No. 22.431 which establishes the integral protection system for people with disabilities, and old persons are included therein. This system is intended to ensure them social welfare benefits as well as certain exemptions and incentives required to neutralise, as far as possible, the disadvantages that disability causes. Besides, a system for basic habilitation and rehabilitation services was established by Law No. 24.901, which includes prevention, assistance, promotion and protection, with a view to providing comprehensive coverage for their needs and requirements. Besides, the *Convention on the Rights of Persons with Disabilities and its Optional Protocol* was internally approved by Law No. 26.378, and later Law No. 27.044 granted constitutional status to this Convention in line with sec 75, para. 22 of our National Constitution.

Additionally, many domestic rules explicitly address the issue of racial discrimination against older adults and the general public [(inter alia, *The National Health Insurance Law* (No. 23.661, sec. 1); *The Law on Acquired Immunodeficiency Syndrome* (No. 23.798, sec. 2); *The Patients' Rights Law* (No. 26.529, sec. 2); *The Mental Health Law* (No. 26.567, sec. 7)]. Further, "*Congress is empowered (...) To legislate and promote positive measures guaranteeing true equal opportunities and treatment, the full benefit and exercise of the rights recognized by this Constitution and by the international treaties on human rights in force, particularly referring to children, women, the aged, and disabled persons.*", as provided for in our National Constitution (sec 75, para. 23).

Regarding older adults in the context of migration, Law No. 25.871 establishes that all acts or omissions, for the purposes of such law, shall be considered discriminatory when motivated by considerations such as ethnic origin, religion, nationality, ideology, politica

or trade-union opinion, gender, economic situation or physical characteristics, which arbitrarily obstruct, restrict or in any way impair, on an equal basis, the full exercise of the fundamental rights and guarantees recognised by the National Constitution, international treaties and laws (sec. 13).

There are no limits legally established on the age at which a person should be considered officially old. Therefore, it should be applied the provisions set forth in the *Inter-American Convention Protecting the Human Rights of Older Persons*, a legal instrument built into our legislation with constitutional status by means of Law No. 27.360. As provided therein, an older person is anyone who is 60 years and above. Then, there would be no restrictions which prevent older persons from fully and equally participating in society in areas such as education, healthcare, financial goods and services.

As to employment, the *Pension Reform Law* (No.27.426) modified sec. 252 of the *Labour Contract Law* (No. 20.744), raising the mandatory retirement age to 70 years. That is the age at which the employer may require the employee to retire, provided that the employee meets the requirements imposed to gain access to the *Universal and Compulsory Basic Provision* (PBU, in Spanish), a benefit established by Law No. 24.241 (sec. 17, para. a).