

## Guiding questions for defining the normative content of the issues examined at the eleventh session of the General Assembly open-ended working group for the purpose of strengthening the protection of the human rights of older persons

### Right to work and access to the labor market

#### Definition

1. How is the right to work and access to the labor market for older persons defined in the national legislation in your country? If such a definition is not available, how should it be defined considering relevant existing national, regional and international legal frameworks?

There is national legislation on the enforcement of the equality principle. The Law 58(I)/2004 as has been amended is fully harmonized with 2000/78/EC and 2000/43/EC. This Law provides for a general framework for combating discrimination on the grounds of religion, racial or ethnic origin or belief, age or sexual orientation as regards employment and occupation, with a view to putting into effect the principle of equal treatment.

There is no definition of the right to work and access to the labor market for older persons.

However, the Law contains an exception from the principle of non-discrimination. In particular, differences of treatment on grounds of age shall not constitute discrimination, if they are objectively and reasonably justified by a legitimate aim, including legitimate employment policy, labour market and vocational training objectives, and if the means of achieving that aim are appropriate and necessary. Such differences of treatment may include, among others:

- (a) the setting of special conditions on access to employment and vocational training, employment and occupation, including dismissal and remuneration conditions, for young people, older workers and persons with caring responsibilities in order to promote their vocational integration or ensure their protection;
- (b) the fixing of minimum conditions of age, professional experience or seniority in service for access to employment or to certain advantages linked to employment;
- (c) the fixing of a maximum age for recruitment which is based on the training requirements of the post in question or the need for a reasonable period of employment before retirement.

Furthermore, the fixing for occupational social security schemes of ages for admission or entitlement to retirement or invalidity benefits, including the fixing under those schemes of different ages for employees or groups or categories of employees, and the use, in the context of such schemes, of age criteria in actuarial calculations, does not constitute discrimination on the grounds of age, provided this does not result in discrimination on the grounds of sex.

#### Scope of the right

2. What are the key normative elements of the right to work and access to the labor market for older persons? Please provide references to existing standards on elements such as:

- a) Prohibition of all forms of discrimination against older persons on the basis of age, alone or combined with other grounds, in all matters related to employment.

The Law 58(I)/2004 (section 8) provides for the derogations concerning age.

- b) Elimination of all forms of ageism and age discrimination from the workplace and organizational cultures.

According to the Law 58(I)/2004 any person who may face any matter of the above issue can submit a complaint to the Department of Labour as competent authority.

- c) Provision of reasonable accommodation to older persons in the workplace.

Reasonable accommodation in the workplace is only provided for people with disabilities.

- d) Affirmative action programs to promote the hiring of older persons.  
Access to career development, technical and vocational guidance programs, placements services and vocational and skills development.

The Public Employment Services (PES) offer all job seekers, without discrimination, free of charge, assistance in finding employment, through registration, job search services and placement services, which include vocational guidance, counseling and referrals to training programmes and job vacancies. Furthermore, unemployed persons can participate in Employment Subsidization Schemes that are promoted by the Department of Labour.

- e) Access to flexible or gradual retirement schemes and flexible working practices for older workers.

The provision of training in Cyprus is based on the expressed principle of equal access to all. Both the legislation providing for the establishment and operation of the HRDA, as well as the policies and measures of the organisation ensure that there is no discrimination regarding vocational training of persons according to their race, colour, sex, age, religion, political opinion, national extraction or social origin or any other trainee characteristic. The training activities of the HRDA respond to the training needs of the economy as a whole, of enterprises and of the labour force, with no discrimination made. These needs are identified by research studies of the HRDA as well as by enterprises concerning their own specific needs. Training is implemented, after the approval of the HRDA, either by certified vocational training centres or by enterprises.

The HRDA ensures that approved and subsidised training is implemented according to quality specifications and that it responds to the priorities of the economy, which are set in the form of guidelines by the HRDA in cooperation with the competent government services and the social partners. Participation in training and development activities approved and subsidised by the HRDA is open to all beneficiaries, as defined in the Policy and Procedures Guide of each scheme. Unless a scheme, due to its scope and objectives, sets age limits for the participants, there are no age-related restrictions for the participants in the HRDA's schemes. It should be noted, however, that, in the schemes that support the training of employed persons, the decision on the participants rests with the employers.

It is finally noted that the HRDA has developed a mode of operations allowing it to respond in a flexible manner to the needs of both the unemployed and the employed as well as the enterprises. In response to the SARS-CoV-2 pandemic and to help contain its spread, the HRDA has promoted the utilisation of e-learning methods by the organisers of subsidised training programmes, as of 26<sup>th</sup> March 2020. This development is seen not only as a response to a threat but also as a push for faster adoption of ICTs in vocational training.

The training and development activities approved and subsidised by the HRDA that are open to participants irrespective of age, as defined in the Policy and Procedures Guide of each scheme, are briefly described in **Appendix I**.

- f) Promotion of older persons' self-employment and entrepreneurship.
- g) Favorable, fair, and safe working conditions when undertaking formal, informal or unenumerated work.
- h) Access to prompt remedies and redress when older persons' right to work and access to the labor market is denied.

All persons who consider themselves wronged by failure to apply the principle of equal treatment to them, may either bring a case before a competent Court, or submit a complaint to the Equality Body

### **State obligations**

3. What are the measures that should be undertaken by the State to respect, protect and fulfil the right to work and access to the labor market for older persons, regarding the normative elements as provided above?

Measures that could be envisaged include:

- The promotion of digital and soft skills training for older persons
- Awareness raising about the benefits of employing older persons
- Provision of incentives to employers in order to employ older persons
- Prioritization of older persons by PES and the provision of a more intensive and personal approach when providing employment services to them

### **Special considerations**

4. What special measures and specific considerations should be considered in developing the normative content of the right of older persons to work and access to labour market, such as protection and regularization of older workers in informal sector, equal remuneration for work of equal value particularly for older women as well as recognition of unpaid work often carried out by older women?

The special measures and special considerations that should be considered are:

- The regularization of flexible working arrangements in traditionally non-flexible jobs
- The promotion of healthy and safe work environments, taking into consideration the special needs of older persons

Measures and policies on the rights of older workers should take into consideration that older women are taking a double hit when it comes to their remuneration, caused by both gender and age discrimination. The existent gender pay gap throughout their working life also has a negative impact on their pension level, putting them at risk of poverty. Older women also undertake care responsibilities, which are essential for households and economies to function, but is actually unpaid work. Therefore, measures

should aim at the provision of services, social protection and basic infrastructure, the creation of more paid jobs in the care economy and the elimination of the negative impact on pensions women's levels by eliminating the pay gap throughout their working life.

5. How should the responsibilities of non-State parties such as private sector be defined in the context of the right to work and access the labour market for older persons?

The Law for Equal Treatment in employment and occupation applies equally to public and private sector.

### **Implementation**

6. What are the best practices and main challenges faced by your country in the adoption and implementation of the normative framework on the right to work and access to the labor market for older persons?

The main challenges faced are the reluctance of employers to hire older persons, the difficulties that most older persons face keeping up with the ongoing digital transformation including at work and older persons' new vulnerability that is due to the covid-19 pandemic.

### **Access to justice**

#### **Definition**

1. What is the definition of the right of older persons to access justice in the national legislation in your country? Or how should such a right be defined, considering existing national, regional and international legal framework?

#### **Scope of the right**

2. What are the key normative elements of the right of older persons to access justice on an equal basis with others? Please provide references to existing standards on such elements as below, as well as any additional elements:

- (a) The guarantee of older persons' legal capacity (legal standing and legal agency) on an equal basis with others and not denied on the basis of age;

- (b) Elimination of the influence of ageist stereotypes at any stage of judicial or non-judicial proceedings, including the award of damages or compensation;

- (c) Access to timely legal proceedings, especially in situations of immediacy;

- (d) Accessibility of courtrooms, legal tribunals and other justice-related facilities to all older persons;

- (e) Access to legal services, including legal assistance, legal aid, counselling and hotlines, on an equal basis with others ;

As a matter of principle and always taking into consideration the severity of the crime committed, vulnerable people are not arrested. All persons arrested by the police have the right of access to legal services, including assistance, counseling and aid on equal basis.

In particular, the national legislation provides that every detained person has the right after his/her arrest and without undue delay to contact personally by telephone, in the presence of a Police member, a relative or an employer or other person of their choice and in case of a person under 18 years to contact their parents or guardians.

Additionally, free legal aid during the interrogation stage is available to detainees who claim not to state, if they claim that they do not have enough resources to exercise the right of access to a lawyer.

Access to a lawyer includes the right to:

- (a) have a private meeting and contact with the lawyer who is representing the detained persons at any time whatsoever;
- (b) request the presence and the participation of the lawyer during the interrogation, in order to provide a detained person with clarifications with regard to the procedure which is being followed and to advise on the procedural rights related to the interrogation.
- (c) request the presence of the lawyer during the investigation or gathering of evidence in the event that, according to the legislation, the detained person is entitled to attend to the specific interrogation procedure.

Lastly, all detained persons are entitled to send and receive letters to and from their lawyer without the letters being opened or read by any Police member except in exceptional cases in which the officer in charge of the detention place has reason to believe that an illegal object is enclosed in the envelope and in such case the letter is opened and checked by a Police member in the presence of the detained person, without reading the letter.

(f) Access to alternative, non-judicial pathways to justice, including, but not limited to, one-stop community justice centres, paralegal support, ombuds procedures or specialist commissioners;

(g) Access to reasonable accommodation in all legal and administrative proceedings at any stage to facilitate older persons' effective role as direct or indirect participants in justice proceedings;

Special needs of the elderly are taken into consideration by the Cyprus Police as regards access to legal and administrative procedures (interpolation, health issues, medication etc).

In this regard, access to a lawyer is granted:

- (a) before interrogation by the Police or other competent authority;
- (b) promptly before the person is brought before ~~the~~ Court;
- (c) during an investigation or gathering of evidence by the Police or other competent authority.
- (d) upon deprivation of the person's liberty, without undue delay.

(h) Adequate and appropriate training to all those working in the administration of justice and law enforcement, including the judiciary, police and prison staff, on the rights of older persons;

The Cyprus Police Academy provides education and training related to human rights, racial and other forms of discrimination, combating xenophobia and racism at all levels of Police training. These lectures are included in the Basic Training Programme for Recruit Police Officers, the advanced courses such as Sergeants' Course, Inspectors' Course, Chief Inspectors' Course, as well as at specialized courses.

Furthermore, in the context of the training provided at the Cyprus Police Academy for handling detained persons, reference is also made to vulnerable groups (elderly, minors, etc.).

(i) Accommodation of the needs of older prisoners, including necessary physical adaptations, protection against violence and extortion, appropriate educational and vocational opportunities, and support with reintegration into the community;

Constant efforts are made by the relevant departments of the Police to further improve the conditions of detention, nationwide, in order to meet the recommendations of the Committee for the Prevention of Torture (CPT), the Ombudsman and other European and International Organizations.

Additionally, it is prohibited for detainees to be subjected to torture or to inhuman or degrading punishment or treatment or to any physical or psychological or mental violence. They are entitled to decent treatment, conduct and living conditions.

As regards protection against violence, if a person believes that they have been discriminated against, ill-treated, or their human rights have been violated by the Authorities, they have the right to file a complaint. There are several independent authorities for the investigation of such alleged cases which aim at the objective investigation of complaints, as well as the reduction or even the elimination of any inappropriate behaviour by members of the Police.

The Police, through circular letters and Police Standing Orders has established a procedure, which incorporates several actions when handling complaints of such nature.

(j) Equal access of older prisoners to services, including physical, mental and cognitive health, dental, hygiene and hospice services, and social and other support services available to the general population; and

All detainees have equal rights as regards support services provided at the detention centers. In particular, all detainees have access, inter alia, to the following rights / services:

- Medical treatment,
- Lawyer / family / friends / representative of his/her Embassy (through visits, telephone or letters),
- Interpretation and translation,
- Television and other means of entertainment (books and board games),
- Outdoor exercise area,

- Personal hygiene products,
- Balanced nutrition,
- Facilities for persons with disabilities.

(k) Access to prompt remedies and redress when older persons' right to access justice is denied.

In the event that any of the rights of the detained persons are violated, they have an actionable right to compensation for that violation against the state and the Police member or the officer in charge of the detention facility. They are entitled to fair compensation for the violation, regardless of whether they have suffered any actual harm or damage or monetary or other loss as a result thereof.

### **State obligations**

3. What mechanisms or measures are necessary to ensure the enjoyment and to monitor implementation of the right of older persons to access justice, including State obligations to respect, promote, protect, and fulfill the right?

### **Special considerations**

4. What special considerations or specific issues should be included in the right of older persons to access justice, including procedural and age-appropriate accommodations as well as responsibilities of non-State actors?

### **Implementation**

5. What are the best practices and main challenges faced by your country in the adoption and implementation of the normative framework on the right to access justice for older persons?

**A. Training and development activities**

**A.1 Integration of the unemployed and inactive into employment**

**Training Programmes for the Unemployed:** The scheme aims at the provision of training opportunities for the unemployed in order to acquire, enrich and/or upgrade their skills and knowledge, in accordance with the needs observed in the labour market, which in turn will broaden their prospects for reintegration in employment, as well as meet their expectations for a new professional career. Training programmes may include an on-the-job practical training part in an organisation/enterprise.

**Standard Multi-Company Training Programmes – Participation of the unemployed:** Each certified public or private vocational training centre may accept unemployed persons who are registered with the Public Employment Service (PES) to participate in training programmes covering a broad range of issues. The unemployed can enrich their knowledge and skills and improve their prospects for reintegration into employment.

**A.2 Lifelong learning of the employed**

**Single-Company Training Programmes in Cyprus:** The scheme aims at providing incentives to employers to design and organise in-company training programmes, implemented by internal or external trainers, in order to meet the specific needs of the enterprise for the effective utilisation of its personnel.

**Single-Company Training Programmes Abroad:** The scheme aims at providing incentives to employers to participate with their personnel in training programmes abroad in order to acquire specialised knowledge and skills in areas related to the introduction of innovation, new technology and technical know-how.

**Standard Multi-Company Training Programmes – Participation of the employed:** The scheme aims at providing continuing training for meeting the training needs of employees through their participation in training programmes implemented by certified public or private vocational training centres. They cover a broad range of issues in all operations of the enterprise and in all occupations.

**High Priority Multi-Company Training Programmes:** The scheme aims at providing continuing training to meet the training needs of employees through participation in training programmes in specific high-priority issues implemented by certified vocational training centres.

It is noted that the programmes implemented within the latter four schemes are designed on the basis of documents, prepared by the HRDA every two years following consultation with interested bodies, that contain the themes for the training programmes it subsidises, which are



communicated to the enterprises and training providers. These programmes cover a broad range of subjects in relation to all the operations of the enterprise and all the professions.

**Continuing Training Programmes for Trade Union Officials:** The scheme aims at covering the training needs of trade union officials on issues that are related to their trade union activities. The training programmes are implemented by certified trade union training centres.

**Scheme for the Utilisation of Alternative Forms of Learning (*new*):** The scheme will meet the training needs of employees through their participation in training programmes utilising alternative forms of learning with the use of Information and Communication Technologies (ICTs).

## **B. National Recovery and Resilience Plan 2021-2026 and Cyprus Operational Programme «THALIA» 2021-2027**

### **B.1 National Recovery and Resilience Plan 2021-2026** ***(approved by the European Commission)***

**Training programmes for the acquisition of digital skills – Participation of the employed and the unemployed (*new*):** The scheme aims at the acquisition of new and upgrading of existing digital skills of the human resources of Cyprus (public and private sector employees, the self-employed and the unemployed), through participation in training programmes to be implemented by certified vocational training centres.

**Training programmes for the acquisition of knowledge and skills related to the green economy – Participation of the employed and the unemployed (*new*):** The scheme aims at the acquisition of new and upgrading of existing knowledge and skills of employed persons (private sector and the self-employed) who are in occupations or sectors of the green economy or the unemployed who wish to enter these occupations, by participating in training programmes to be implemented by certified vocational training centres.

**Training programmes for the acquisition of knowledge and skills related to the blue economy –**

**Participation of the employed and the unemployed (*new*):** The scheme aims at the acquisition of new and upgrading of existing knowledge and skills of employed persons (private sector and the self-employed) who are in occupations or sectors of the blue economy or the unemployed who wish to enter these occupations, by participating in training programmes to be implemented by certified vocational training centres.

### **B.2 Cyprus Operational Programme «THALIA» 2021-2027** ***(submitted to the European Commission for approval)***

**Individual Learning Accounts (ILAs) (*new*):** ILAs will provide credits to eligible groups of employed and unemployed persons to attend training programmes, in order to acquire new and/or upgrade existing knowledge and skills. They aim at promoting lifelong learning by

providing opportunities for flexible promotion of upgrading knowledge and skills, while preventing social exclusion.

Through ILAs, individuals will gain access to training programmes on a broad range of issues within the Standard Multi-Company Training Programmes of the HRDA. Their involvement in training activities with the opportunities provided for skills upgrading and retraining can enable them to remain competitive in the labour market, improve their employment opportunities, while at the same time enhance social cohesion.

### **C. Enhancement of quality assurance systems**

**System of Vocational Qualifications (SVQ):** The SVQ constitutes an integral part of the National Qualifications Framework (NQF), which is referenced to the European Qualifications Framework (EQF). The System is designed for the assessment and certification of the competence of a person to carry out a specific job in real and/or simulated working conditions. The Vocational Qualifications Standards (VQS) define the framework for the training and development of a person, providing to the person the opportunity to reach the appropriate competence level. During the programming period 2014-2020, two projects within the framework of the SVQ, are co-financed by the European Social Fund (ESF) and the HRDA. The first project concerns the «Expansion and Operation of the System of Vocational Qualifications (SVQ)». Through this project, the HRDA is expected to award 4.000 certificates. The second project concerns the «Development of Vocational Qualifications Standards (VQS)». Through this project, the 72 existing VQS developed during the programming period 2007-2013 will be revised and new VQS will be developed. The second project will be completed in the first six months of 2022 with the approval of 167 VQS.

**System for the Assessment and Accreditation of Training Providers:** The aim of the System, which has been fully implemented as of 1<sup>st</sup> January 2015, is to assess physical and legal entities dealing with the organisation and implementation of training activities and/or with the provision of infrastructure facilities for their implementation, to be certified as Vocational Training Centres, Vocational Training Facilities and Trainers of Vocational Training. Certification through the System is compulsory for those who want to cooperate with the HRDA for the implementation of training activities. Persons who want to become Trainers of Vocational Training must successfully go through the assessment and certification procedure following the System of Vocational Qualifications (SVQ) operated by HRDA and acquire the Trainer of Vocational Training Qualification (EQF/CyQF 5, SVQ Level 5).