



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?

The right to work is a fundamental right that is ensured by the Constitution of the Republic of Slovenia and defined in its Article 49 as the freedom of work shall be guaranteed, everyone shall choose his employment freely and everyone shall have access under equal conditions to any position of employment..Furthermore the principles of equality and equal treatment, regardless of age, are detailed in the Protection against Discrimination Act (Official Gazette, 2016/33). These include access to the labour market, job vacancy conditions, and employment conditions, among other criteria.

Against this background, the Labour Market Regulation Act (Official Gazette, 2010/60 and its amendments) provides different modes of support to enter the labour market and social security for all unemployed persons. The Act includes a definition of unemployed persons which excludes retired persons and with regard to the ability to work determines age brackets between 15 and 65 years.

This Act also stipulates the conditions under which the unemployed are eligible to receive unemployment benefits. In this regard, two stipulations are relevant for older unemployed persons: 19 months of entitlement for those older than 53 years of age (provided they have been included in unemployment insurance for more than 25 years) and 25 months for those older than 58 years (provided they have been included in the insurance scheme for more than 28 years).

In addition, the Act extends the right to work to retirees within the occasional work institute that determines the possibility of performing paid work limited to 60 working hours per month.

Strategic implementing documents deriving from the mentioned Act, namely the Active Labour Market Policy Measure Guidelines (the current relevant Guidelines apply for the period 2020 to 2025) and the subordinate documents, i.e. the Plan for Active Labour Market Policy Measure Implementation and the Active Labour Market Policy Measure Catalogue of Programmes, include the older unemployed among the priority target groups and further define the group of older unemployed persons. The Guidelines distinguish three age groups of older persons: unemployed persons older than 50 years of age, unemployed persons 50-55 years of age, and those older than 55 years of age. The Plan and Catalogue then further list the Programmes in which older unemployed persons can participate.

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.**
 - b) **Elimination of all forms of ageism and age discrimination from the workplace and organizational cultures.**
 - c) **Provision of reasonable accommodation to older persons in the workplace.**
 - d) **Affirmative action programs to promote the hiring of older persons.**
 - e) **Access to career development, technical and vocational guidance programs, placements services and vocational and skills development.**
 - f) **Access to flexible or gradual retirement schemes and flexible working practices for older workers.**
 - g) **Promotion of older persons' self-employment and entrepreneurship.**
 - h) **Favorable, fair, and safe working conditions when undertaking formal, informal or unenumerated work.**
 - i) **Access to prompt remedies and redress when older persons' right to work and access to the labor market is denied.**
1. (a) The Employment Relationships Act directly prohibits discrimination and retaliatory measures against job seekers and employees based on any personal circumstances, including age; Articles 6, 7, and 8.
 2. (d, e) The educational obligations with regard to all workers is prescribed in the Employment Relationships Act (Article 170). A worker shall have the right and obligation to undertake ongoing education, training and further training in accordance with the requirements of the working process for the purpose of maintaining and/or improving the skills needed to perform the work under the employment contract, to maintain employment and to increase employability. Employers shall be obliged to provide education, training and further training to workers if the needs of the working process so require or if education, training or further training may prevent the cancellation of an employment contract for reason of incompetence or business reasons. In accordance with the needs regarding the education, training and further training of workers, employers shall have the right to refer workers for education, training and further training, and workers shall have the right to apply for education, training and further training themselves.
 3. (f) Older workers have special protection through the Employment Relationships Act:
 - the right to part-time employment in the case of partial retirement; and
 - the prohibition of overtime work or night work without the worker's prior written consent (Articles 197 to 199).
 4. (h) Regarding the question of favourable, fair, and safe working conditions when undertaking formal, informal or unenumerated work, we would like to mention the Occupational Safety and Health Act (Official Gazette of the Republic of Slovenia, No. 43/11), Article 5 (ensuring the safety and health of workers at work), which stipulates that employers must devote special attention to ensuring the safety and health of pregnant workers, young and older workers and workers with reduced working capacity and take into account the special risks to which these workers are exposed at work, in accordance with special regulations.
 5. (i) Regarding access to prompt remedies and redress in the event of a violation of the prohibition of discrimination, the employer shall be liable to provide compensation to the candidate and/or worker under the general rules of civil law. Non-pecuniary damage incurred by a candidate or worker shall also include mental distress suffered owing to the unequal treatment of a worker and/or the discriminatory conduct of an employer and/or failure to provide protection against sexual or other forms of harassment or workplace mobbing suffered by a candidate or worker pursuant to the Employment Relationships Act.



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?**

The national authorities are obliged to implement the relevant legislative framework in their policies and measures. The legislation also clearly states the bodies responsible for complaints or lawsuit claims. Under the Labour Market Regulation Act, the relevant bodies for this area are the Employment Service of Slovenia, the Ministry of Labour, Family, Social Affairs and Equal Opportunities, and the Labour Inspectorate.

Access to lifelong career guidance (e) is ensured to all persons by the Labour Market Regulation Act, which is defined as a state service on the labour market. It includes labour market information, independent, basic and in-depth career guidance, as well as learning career guidance skills.

Older unemployed persons are considered among the priority groups of unemployed persons (d) and are included in most programmes under the Active Labour Market Policy Measures, apart from those that are adjusted to the needs of younger unemployed persons. Therefore, there is variety of programmes available for their participation, ranging from formal and informal education and training programmes, job creation, employment incentives and self-employment. Moreover, the Employment Service of Slovenia (the public employment service), devotes attention to hard-to-place individuals, including older persons. Several additional kinds of support are possible, including close cooperation with employers to promote and ease the employment of vulnerable unemployed persons. Post-placement support and in-depth support for job candidates, including job interview rehearsals and the attendance of an employment councillor at job interviews, are possible.

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?**
- 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 legislation listed at the beginning of this paper is obligatory for all actors in Slovenia and does not allow differentiation in enforcement with regard to the right to work and access to the labour market for older persons. This general rule is universal and applies to the state, private and non-government sectors without exception and regardless of the target group on the labour market, including older persons.

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 labour market for older persons?**

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 ;
- (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;



(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;

(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;

(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

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

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?