



**PROVEDORIA DOS DIREITOS HUMANOS E JUSTIÇA**  
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**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?

Article 20 of the Constitution of Timor-Leste (CDRTL) is the base for the legal provisions and policy framework that regulates the rights of older citizen in Timor-Leste. Article 50 of CDRTL is the base for the legal provisions framework and policy framework on the right to work.

*Article 20 (Senior Citizens)*

- 1. Every senior citizen has the right to special protection by the State.*
- 2. The old age policy entails measures of economic, social and cultural nature designed to provide the elderly with opportunities for personal achievement through active and dignified participation in the community.*

*Article 50 (Right to work)*

- 1. Every citizen, regardless of gender, has the right and the duty to work and to choose freely his or her profession.*
- 2. The worker has the right to labor safety and hygiene, remuneration, rest and vacation.*
- 3. Dismissal without just cause or on political, religious and ideological grounds is prohibited.*
- 4. Compulsory work, without prejudice to the cases provided for under penal legislation, is prohibited.*
- 5. The State shall promote the establishment of co-operatives of production and shall lend support to household businesses as sources of employment.*

Labor Law 4/2012:

- Article 6 (2) states that no worker can be discriminated due to age.
- Article 45(d) prohibits firing based on age.
- Article 47(c) employment contract ends when person retires.

The article 8 statute of CFP Law 5/2009, no discrimination should be made by for the hiring of civil servants.

## 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.

Labor Law 4/2012:

- Article 6 (2) states that no worker can be discriminated due to age.
- Article 45(d) prohibits firing based on age.

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

Same as above.

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

Non.

- d) Affirmative action programs to promote the hiring of older persons.

Non.

- e) Access to career development, technical and vocational guidance programs, placements services and vocational and skills development.

- The same as for other workers. Article 6 (2) states that no worker can be discriminated due to age. Ministerial Diploma No. 58/2021 that regulates access to tertiary education in 2022 foreseen in its article 15 a special entry for people with more than 23 years, veterans and people that already have a university degree to be able to enroll for further studies.

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

Non.

- g) Promotion of older persons' self-employment and entrepreneurship.

Non.

- h) Favorable, fair, and safe working conditions when undertaking formal, informal or unenumerated work.

Same as other workers, no special provisions.

- i) Access to prompt remedies and redress when older persons' right to work and access to the labor market is denied.

Same as available to all citizens, no special provisions for older persons.

## 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?

Implement flexible or gradual retirement schemes and flexible working practices for older workers, with the possibility to accumulate income with pension.

Establish affirmative action programs to promote the hiring of older persons for trainer/mentor positions for younger staff, to help capacitate younger professionals coming into the workplace.

## 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 ability to accumulate other income, regardless of the employers (state or private) with the pension is important, as well as providing flexible retirement schemes, working hours and practices to encourage older persons to remain or return labor markets after retiring. Currently retired civil servants can only accumulate income from employers in the private sector not public sector. Mentoring programs where older persons could have the possibility to share their work experience with the youth could also be very positive.

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?

Through affirmative action or State subsidies or some other form of financial benefits the private sector can be encouraged to adopt some schemes aimed at encouraging older persons to remain or access labor markets.

## 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?

Timor-Leste's main challenge is that being one of the youngest nations in the world with a young population means that policies for the employment and occupation of youth is the main priority of the Government. The Government's push to make it obligatory for civil servants over 60 years to retire, if it is approved, will create a challenge for such group to re-enter again the labor market. Laws not allowing the accumulation of pension with other income from the State acts as a deterrent for retired civil servants to carry on working after retirement.

## 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?

Access to justice is a constitutional right (Art.26 of the Constitution) and present legal framework foresees a Public Defender's Office and a Human Rights and Justice Ombudsman to ensure such right to all citizens, regardless of their economical means or age.

### 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:

Art 16 of the Constitution states that all citizens have equal right and cannot be discriminated. Although age is not listed as a type of discrimination, through article 23 of the Constitution the interpretation of article 16 can be extended to englobe discrimination based on age, especially as article 20 of the Constitution grants older person a special status and protection under the law.

(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; [As stated above.](#)

(b) Elimination of the influence of ageist stereotypes at any stage of judicial or non-judicial proceedings, including the award of damages or compensation; [No existing standards on such element.](#)

(c) Access to timely legal proceedings, especially in situations of immediacy; [No existing standards on such element.](#)

(d) Accessibility of courtrooms, legal tribunals and other justice-related facilities to all older persons; [No existing standards on such element.](#)

(e) Access to legal services, including legal assistance, legal aid, counselling and hotlines, on an equal basis with others; [Yes, it exists as stated in point 1 above.](#)

(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; [Yes, it exists as stated in point 1 above.](#)

(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; [No existing standards on such element.](#)

(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; [No existing standards on such element.](#)

(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; [No existing standards on such element.](#)

(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 [As per all prisoners, no exiting any specific standards for older persons.](#)

(k) Access to prompt remedies and redress when older persons' right to access justice is denied. No existing standards on such element.

### **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?

Specific data needs to be collected to properly monitor the right of older persons in all aspects of life in Timor-Leste. Only then the necessary policies and regulations can be introduced to ensure that the State obligations to respect, promote, protect, and fulfill the right of older persons in being upheld.

### **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?

Special considerations that should be included in the right of older persons to access justice:

- a) priority in the hearing of cases, ensuring a timely decision for older persons;
- b) 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 proceeding;
- c) Non-State actors assist in the divulgation and report of older persons rights and abuse against older persons.

### **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?

The main challenges faced by Timor-Leste will be establishing the necessary framework and providing the funding to support the normative framework on the right to access justice for older persons, namely regarding the accommodation of the needs of older persons, including necessary physical adaptations in all legal and administrative proceedings at any stage. This is mainly due to the fact that older persons are not rated as a priority by the state, youth taking this spot and as a result becoming the Government's main priority.