

Guiding Questions for Focus Area: Access to Justice

National legal framework

1. How is the access to justice by older persons guaranteed under the national legal and policy framework? What judicial and non-judicial mechanisms are in place for all older persons to complain and seek redress for denial of their rights?

Article 10 of the Constitution of the Republic of Turkey, amended on 12 September 2010, provides that positive actions can be taken in favor of the elderly;

“All individuals are equal without any discrimination before the law, irrespective of language, race, colour, sex, political opinion, philosophical belief, religion and sect, or any such considerations.

Measures favouring children, the elderly, the disabled, widows and orphans of martyrs and veterans shall not violate the principle of equality.”

General Directorate of Services for Persons with Disabilities and the Elderly was established in 2011.

Availability

2. What steps have been taken to ensure the availability of judicial and non-judicial mechanisms for older persons in urban, rural and remote areas in your country? Are there alternative dispute settlement mechanisms available?

In municipalities, there are “Councils” comprising of elderly people. The members of these councils are elected among the elderly citizens who reside within the boundaries of that municipality and serve as consultants in particular situations concerning elderly citizens.

Accessibility

3. What steps have been taken to ensure that all justice systems (judicial and non-judicial) are secure, affordable and physically accessible for older persons and adapted to their needs?

Regulations to achieve justice for elderly people in Turkey are listed below:

- Regulation on Nursing Homes and the Nursing Homes and Care and Rehabilitation Centers for the Elderly;
- Regulation on Private Nursing Homes and Nursing Home and Care Centers for the Elderly;
- Regulation on the Principles of Establishment and Operation of Nursing Homes to be opened within the body of Public Institutions and Organizations;
- Regulation on the Payment of Allowance to the Persons with Disabilities and the Elderly under Care in the Social Service Organizations;
- Regulation on the Payment of Allowance to the Turkish Citizens with Disabilities and the Elderly over 65 years old who are Destitute, Infirm and without any Means of Support;
- Regulation on provision of health care at home by Ministry of Health and Affiliate Institutions;
- Regulation on Day Care Services and Home Care Services to be provided at Centers of Elderly Services;
- Law on Metropolitan Municipalities;

- Regulation on Ticketless/Free or Reduced Rate Travel Cards;
- Regulation on Assessment of Persons with Disabilities in Need of Care and the Principles of Care Services to be provided;
- Directive on the Procedure and Principles of Palliative Care Service Implementation.

4. What are the existing provisions to guarantee legal assistance for older persons?

Article 60 of Law no 5510 on Social Insurances and General Health Insurance defines the holders of general health insurance. As per subclause (3) of item (c) of the first clause in Article 60 which states "individuals who receive pension pursuant to the provisions of Law Number 2022 on Putting Needy, Weak and Forlorn Turkish Citizens Over the Age of 65 on Pension dated 1/7/1976", older persons benefit from general health insurance. Premiums for destitute persons over the age of 65 years old within the scope of general health insurance are paid by the relevant Ministry, and thus older persons can benefit from health care services free of charge.

5. What are specific challenges encountered by older persons in accessing justice and remedy in your country?

There are currently no specific challenges with regard to accessing justice and remedy. If information level of the elder persons' about their own rights is enough all of them can access these services.

6. What good practices are available in terms of ensuring equal and effective access to justice and remedy for older persons?

As stated in Article 10 of the Constitution positive discrimination is essential for the elderly in Turkey. Like all individuals, elderly people also hold rights in Turkey and there is a need to raise awareness of the society and the elderly to a sufficient level on accessing positive action practices. The methods of awareness-raising and provision of information on the services and rights should be used.

To ensure that the elderly are aware of their rights and services for them is important. Within this scope, a report has been prepared by "Special Expertise Commission on Aging" for the years 2014-2018. This report included various issues such as awareness-raising about elderly rights, elderly discrimination, neglect and abuse of the elderly.

In Turkey, there is a need to develop awareness on ageing in the community and to develop a legal and institutional structure that would contribute to improve the rights of the elderly. Within this scope, above-mentioned report covers the following issues:

- Adoption of elderly law as a new branch; enforcement of the necessary legal arrangements for the elaboration of the cases of the elderly in a short time law, punishment and administrative procedure; simplification and control of guardianship procedure, keeping in mind the fact that the elderly individuals do not have only needs but also rights; review of the laws on the elderly taking into consideration the issue of "persons requiring special protection in the field of social security" (Article 61 of the Constitution); revision, update and implementation of regulations on institutional care and home care services; publication of the declaration on elderly rights (there is currently a draft of it); preparing job definitions of the staff employed at public and private elderly care institutions, enforcement of required occupational laws; the regulation of the legislation for the scope, standardization and implementation of the services rendered by municipalities to seniors, revision and elimination of varying definitions of "elderly" in order to provide a common terminology both in legislation and practice as much as possible;

establishment of General Directorate of Ageing and Services for the Elderly; accelerating the efforts to establish national institution on aging/elderly; promoting investments and services of the private sector aimed at the elderly; strengthening civil supervision mechanisms with the participation of NGOs as part of the audit of public services; increasing legal sanctions both for institutions and individuals in relation to the neglect and abuse of the elderly; according the right to establish trade unions for the retirees.

Equality and non-discrimination

7. What are the provisions adopted to ensure effective access to justice for older persons on an equal basis with others, including age-appropriate procedures in all administrative and legal proceedings?

In Turkey, "protecting the rights and liberties, fair, trustworthy, efficient and effective justice system" has been adopted. Assurance and sustainability of social and economic life, easy access to justice, restorative justice and efficiency are starting the unity of this period.

Amendments to justice are often directed to disadvantaged groups such as children, women, the disabled, the elderly, refugees, convicts and the poor. They are exempt from court costs. Therefore, it is planned to remove the barriers to the lack of information, insecurity and complex legal remedies approval for disadvantaged groups.

8. Please specify existing public policies and awareness-raising and capacity building programmes established for all justice system personnel to address the negative impacts of ageism and age discrimination in justice system.

Ministry of Justice; It is the duty of the Authority to assist applicants with the allegation of being a victim of non-discrimination violations in order to guide them in the administrative and legal processes they can use to remedy their grievances and to ensure that they follow up their applications.

The third of the Judicial Reform Strategy Document was announced in 2019. The first was announced by the Ministry of Justice to the public in 2009 and the second in 2015 within the framework of EU membership negotiations. A 5-year period is envisaged for the implementation of the regulations. Modification of the execution system for some disadvantaged groups such as women, children and the elderly, pregnant and children convicted of some non-violent crimes with electronic handcuffs at home, alternative execution methods for the executions of severely ill, convicts and children.

Accountability

9. How do you ensure justice systems function in accordance with the principles of independence and impartiality? Please specify if there is any oversight mechanism in place to address any discrimination against older persons committed by justice system professionals.

In our country, service is provided with the understanding that in democratic societies, the concepts of accessibility, accountability and transparency have become indispensable in the efficient execution and delivery of public services.

Transparency requires that information on judicial activities and services can be easily understood and publicly available. It is an indispensable element in establishing trust in the judiciary.