

Republic of Türkiye

February 20th, 2023

Guiding questions for defining the normative content of the issues examined at the twelfth session

Focus Area 2: Economic Security

Definition

- 1. How are the key human rights relating to older persons' economic security defined in the national legislation in your country? If definitions are not available, how should, such rights be defined considering relevant existing national, regional, and international legal frameworks?**

Scope of the rights

- 2. Please provide references to existing national legal standards relating to older persons' economic security on normative elements such as;**
 - a) right to social security; including regular adjustment of benefits with changes in living costs;
 - b) right to adequate standard of living, including housing, clothing, food and water, among others;
 - c) right to work; and whether a national minimum wage or any alternative mechanism is in place to ensure an adequate standard of living, and whether a system of indexation and regular adjustment exists;
 - d) 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 economic security;
 - e) the connections between relevant economic, social and cultural rights with the right to freedom of expression, including freedom to seek, receive and impart information; and rights to peaceful assembly and freedom of association;
 - f) active, free and meaningful participation of older persons and their representative organizations in all matters related to ensuring their economic security, including in political processes;
 - g) access to prompt remedies and redress when older persons' above mentioned rights are violated.

State obligations

- 3. What measures and special considerations should be undertaken by the State to respect, protect and fulfil the above-mentioned rights to ensure older persons' economic security?**

Implementation

4. What are the good practices and main challenges faced by your country in the adoption and implementation of the above-mentioned normative framework to ensure older persons' economic security?

As per the Article 2 of the Constitution, the Republic of Türkiye is a social State governed by rule of law and respects human rights. In this context, the Constitution establishes two fundamental rights in terms of economic security namely right to social security and right to work.

- Articles 60 and 61 of the Constitution are directly related to the right to social security including for older persons:

Article 60 titled “Right to social security” states that everyone has the right to social security. The State shall take the necessary measures and establish the organisation for the provision of social security.

The third paragraph of Article 61, titled "Persons requiring special protection in the field of social security”, states that older persons shall be protected by the State. State assistance to, and other rights and benefits of older persons shall be regulated by law.

- Articles 49 and 50 of the Constitution titled “Right and duty to work” and “Working conditions and right to rest and leisure” respectively states that everyone including older persons has the right and duty to work and no one shall be required to perform work unsuited to his/her age, sex, and capacity and that minors and women, as well as those with physical and mental disabilities, shall enjoy special protection with regard to working conditions.

In Article 90 of the Constitution, it is stated that international agreements duly put into effect have the force of law. Thus, international human rights treaties especially relevant in this area such as International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the UN Convention on the Rights of Persons with Disabilities in addition to the conventions of the International Labour Organization, for example ILO Convention No. 102, and the European Convention on Human Rights are ratified by Türkiye and they all have the force of law according to the Constitution.

Based on national and international legislation, Social Security Institution is established with the objective of the realization of a social security system at the contemporary

standards that will provide individuals with social insurance and universal health insurance. The system is based on the principles of social insurance provision, effectiveness, equitableness, accessibility, and sustainability in terms of actuarial and financial standards. In this direction, norm and standard unity between the distinct employee categories has been ensured with “the Social Insurance and General Health Insurance Law No. 5510”, effective as of 01 October 2008.

In accordance with the Convention No. 102 of the International Labour Organization (ILO), to which Türkiye is a party, all insured persons have the right to benefit from the following insurance branches pursuant to Law No 5510: old age insurance, invalidity insurance, survivors’ insurance, work accident and occupational disease insurance, maternity and sickness insurance, and universal health insurance.

In line with Article 60 of the Constitution, the long-term insurance branches (old age, invalidity and survivors’ insurances) and qualifying conditions for these insurance branches are specified between the Articles 25 to 40 of the Law No. 5510.

Everyone is entitled to retirement if they fulfil the conditions specified in the relevant articles of the Law No 5510. For those deemed to be insured under the law, the number of premium days required for retirement is 7.200 days with exceptions (E.g. 9.000 days for the civil servants and self-employed). The age of entitlement to retirement is determined according to the date of completion of the number of premium days specified above. According to this, retirement age is applied as;

- 58 for women and 60 for men before 1/1/2036,
- 59 for women and 61 for men between 1/1/2036 and 31/12/2037,
- 60 for women and 62 for men between 1/1/2038 and 31/12/2039,
- 61 for women and 63 for men between 1/1/2040 and 31/12/2041,
- 62 for women and 64 for men between 1/1/2042 and 31/12/2043,
- 63 for women and 65 for men between 1/1/2044 and 31/12/2045,
- 64 for women and 65 for men between 1/1/2046 and 31/12/2047,
- 65 for men and women after 1/1/2048.

The employees who could not fulfil the premium day condition at the expected date of retirement which is presumptively calculated on the basis of first employment date, can still receive a proportional old age pension provided that minimum 5400 days of invalidity, old - age and survivors insurance premiums are declared (replacement rate would be 30%

for the people in this category, 40% for the 7.200 category and 50% for 9.000 category) and 3 years are added to the above-mentioned age limits without exceeding the age of 65. Every year, in January and July, old-age, invalidity and survivors' pensions are adjusted according to the revalorisation coefficient which is calculated on the basis of changes in the consumer price index and growth rate. In order to ensure that the calculated pensions do not fall below a certain level of purchasing power, there is a guaranteed minimum pension threshold, which is set as 5.500 TL for 2023.

As regards the tax and contributions imposed, there is no tax deduction including income tax and contribution cut for the health insurance from the pensions.

National minimum wage is in place as per Article 39 of the Labor Law No. 4857.

In addition, there are a number of practices to promote and support older persons' autonomy and adequate standard of living including their family and friends. In this context, in addition to long-term institutional care; home care support services, home healthcare services, home care allowance, day care services, consultancy services, old age allowance, benefits in-kind and in-cash, support in assistive technology, tax exemptions and derogations, and free or discounted transportation opportunities are provided by the Ministry of Family and Social Services (MoFSS) and other related Ministries.

Home care allowance is provided for family members who provides care at home to a person with disability and an older person in need of care and in economic and social deprivation, on a monthly basis as per the "Social Services Law No. 2828" by MoFSS both to support caregiving families and to encourage intergenerational solidarity among family members.

Elderly Support Program (YADES) was put into practice in 2016 by MoFSS in order to support, strengthen, ensure standardization and expand the services of local governments for older persons in Türkiye. YADES, which is realized with the resources transferred from the general budget, is a project-based support program that aims to raise awareness about old age by activating local dynamics, to support older persons in their own home environment and to prevent their isolation from social life. Within the scope of the program, home care and day care services of local governments for older individuals are supported.

Within the context of Law No. 2022 on "retirement pension pays for elderly Turkish citizens who are aged 65 or over, in a dependent capacity with no relatives and no financial

income”, old-age allowance is paid to citizens aged 65 and over who do not have social security and whose monthly income per capita is less than 1/3 of the net minimum wage, taking into account the person and his spouse, on a monthly basis by MoFSS. As per the Law No. 2022, old-age allowance receivers and their dependents are covered by General Health Insurance and they can benefit from Electricity Consumption Support.

Institutional long-term care services for older persons are provided in public and private nursing homes. Older persons receive long-term care services free of charge or at low cost in nursing homes affiliated to MoFSS. Older persons who benefit from nursing homes free of charge are also given monthly allowance for their personal expenses.