

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?

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.

Due to the unique structure of our country's social security system, the average age of retirement in our country is well below the world average. Currently, the average retirement age in Turkey is below 55.

The 2008 Social Security Reform ensured retirement age to be increased gradually between the years 2036 and 2048, until when the retirement age will be equal to 65 for both men and women. Because of the reason that it will take many years for the average retirement age to rise, instead of establishing flexible or gradual retirement systems, applications of increasing the average retirement age in order to increase the sustainability of the social security system has become the main priority. In the coming years, with the retirement age limits approaching the world average, it will be possible to plan and develop flexible or gradual retirement systems for the insured older persons.

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

In Turkish social security regime, the Social Security Support Premium (SGDP) application, came into force in 1986, has arranged regulations for people who are employed again after retirement. According SSSP, pensions of persons who are employed while receiving old-age pension are cut by 10-30% depending on the status which their pensions subject to and the status they work in. Application of SSSP repealed for those who work on their own behalf after retirement. Providing older

persons' employment after retirement at their own business without any pension cut encourages 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.

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?

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?

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?

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?