

14th Session of the Open-ended Working Group on Ageing
Guiding questions for the focus area on participation in public life
and in decision-making processes

National and local legal and policy framework

1. What are the national and local legal provisions and policy frameworks in your country that guarantee

a) right to equality and prohibition of all forms of discrimination against older persons on the basis of age, alone or combined with other grounds, in the context of participation in public life and in decision-making processes;

b) elimination of all forms of ageism and age discrimination from laws, frameworks, programs, policies, strategies and practices regarding participation in public life and in decision-making processes;

c) right to freedom of expression, including freedom to seek, receive and impart information;

d) right of peaceful assembly;

e) right to freedom of association;

f) right to take part in the government of one's country, directly or through freely chosen representatives;

g) active, free and meaningful participation of older persons and their representative organizations in all matters related to participation in public life and in decision-making processes;

h) access to prompt remedies and redress when older persons' above mentioned rights are violated.

The principle of equality and non-discrimination, which is regulated by the Constitution and other relevant laws in the Republic of Türkiye, is one of the main pillars of the national policy in ageing. Article 10 of the Constitution, entitled 'Equality', guarantees that all persons are equal before the law and that measures to be taken for vulnerable groups, including older persons, cannot be considered contrary to the principle of equality.

The Constitution stipulates that all persons have the right to freedom of thought and opinion and that no one shall be compelled to express his/her thoughts and opinions (Art.25,26), that employees and employers have the right to form trade unions and higher organizations without prior permission, to become a member of such organizations and to withdraw from membership (Art.51), that everyone has the right to form associations without permission and to become a member of such associations or to withdraw from membership (Art.33), and that no discrimination other than the qualifications required for the position shall be allowed in public service (Art.70). However, the maximum age limit for public personnel is 65 (Law No. 5434, Art. 40), while the maximum age limit for university faculty members is 67 (Law No. 2547, Art. 30).

The right of all citizens to vote, to be elected, to engage in political activity in accordance with

the conditions laid down by law (Art. 67), to form political parties and to be a member of political parties is also guaranteed by the Constitution (Art. 68). However, persons under interdiction cannot be elected as members of parliament (Art. 76), and persons to whom a guardian has been appointed due to lack of discernment power cannot vote (Law No. 298).

Persons lacking the ability to act rationally due to various reasons, including mental illness or infirmity, are considered as persons lacking the power of discernment (Art. 13 of the Civil Code No. 4721). The Law stipulates that every adolescent who is incapable of managing his/her affairs due to mental illness or disorders and who requires assistance for his/her protection and care shall be restricted/interdicted and placed under guardianship (Art. 405). Persons may also request to be restricted/interdicted themselves in case the person proves that he/she is unable to manage his/her affairs properly due to ageing, disability or severe illness (Art. 408). However, the restriction/interdicted is only granted with a *health board report*.

The Law of the Human Rights and Equality Institution of Türkiye (TIHEK), established in 2016 as a human rights mechanism to combat discrimination, prohibits discrimination based on age. The Law defines types of discrimination, including direct, indirect and multiple discrimination and failure to make reasonable accommodation. Real and legal persons, including those under guardianship and protection, can apply to TIHEK free of charge with a claim of discrimination. TIHEK is authorized to impose an administrative fine in case of violation.

The Ombudsman's Office ("KDK") is another mechanism of filling a complaint alleging discrimination based on age in all kinds of actions/procedures/attitudes and behaviors of the administration. Should the application be found justified, KDK acts as a mediator and offers recommendations to the administration.

2. What steps have been taken to ensure participation in public life and in decision-making processes without discrimination?

The Ageing Vision Document was shared with the public in 2023, setting out the vision of *"building a society for all ages where older persons can realize their rights, receive services in line with their needs and demands, and pass on their life experiences to future generations"*. The Document was prepared under the coordination of the Ministry of Family and Social Services, the focal institution in the field of ageing, with the contributions of relevant public institutions, CSOs and academics - as in all other policy-making processes. As the roadmap for all stakeholders in the field of ageing, it has 6 policy areas including "Rights of Older Persons". As the implementation tool of the Vision, the National Action Plan on the Rights of Older Persons (2023-2025), prepared with a participatory approach, comprises activities to combat discrimination based on age.

Data and research

3. What data and research are available regarding older persons' participation in public life and in decision-making processes? Please indicate how national or sub-national data is disaggregated by sex, age and inequality dimensions, and what indicators are used to monitor older persons' participation in public life and in decision-making processes.

Profile of the Older Persons Survey was conducted in 2023 in order to develop holistic and

evidence-based policies and practices in the field of ageing. The survey collected data on 10 titles, including ‘Rights of Older Persons and Discrimination’, based on various variables such as sex, age, disability and income. In the survey, data on the participation of older persons in public life and decision-making processes were obtained and the detailed results of the survey are to be announced within the year.

Equality and non-discrimination

4. What are the challenges and barriers that older persons face regarding participation in public life and in decision-making processes, including the impact of intersectional discrimination and inequality based on age, gender, disability, race, ethnicity, migratory status and other grounds?

Older persons in Türkiye, as in the rest of the world, may face discrimination on the basis of age. The discrimination can be further deepened on the grounds of sex and disability. The perception that person's abilities decrease and become fragile due to age; it can lead to social exclusion and thus become an obstacle to participation in public life and decision-making processes. Depending on the traditional approaches, policies and services for older persons focus more on healthcare, social assistance and care services that in turn may constitute an obstacle to active participation in society.

Accountability

5. What judicial and non-judicial mechanisms are in place for older persons to complain and seek redress when their right to participate in public life and in decision-making processes is violated?

In addition to the judicial mechanisms, applications can be made to TIHEK and KDK, as detailed in question 1, with the claim of violation of the right to participate in public life and in decision-making processes.