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ÇALIŞMA VE SOSYAL GÜVENLİK BAKANLIĞI
Dış İlişkiler Genel Müdürlüğü

THE THIRTEENTH SESSION OF THE OPEN-ENDED
WORKING GROUP ON AGING (OEWGA)

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Focus Area : “Economic Security and Contributions of Older Persons to Sustainable Development”

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?

The Ministry of Labour and Social Security also deals with working life comprehensively for that older people to exist in economic life and have a share in sustainable development. In this context, the Ministry studies to improve the current situation and discover difficulties that may arise in the future. In this direction, legal regulations, national action programs, development plans and mechanisms created with the participation of social partners are used as primary tools.

Regarding the relevant legal regulations, the most basic regulation of rights for older people is founded in the Constitution of the Republic of Türkiye. According to the provision of Clause 10 on Equality Before the Law in the Constitution of the Republic of Türkiye, "Everyone is equal before the law, regardless of language, race, colour, gender, political opinion, philosophical belief, religion, sect and similar reasons.". In 2010, the older were added to the 10th clause and defined among the groups in need of special protection. With this addition, the way for the implementation of social policies to be applied in all areas for the older person and special regulations that will strengthen their positions have been opened.

In order to strengthen the status of the older person in the labour market, an annual paid leave regulation is included in Labour Act No. 4857. According to the regulation in Clause 53, annual paid leave of employees over the age of 50 must be at least 20 days.

Türkiye implements the necessary legal regulations to combat discrimination against older people in social, political and economic fields. In 2016 with this vision, Human Rights and Equality Institution of Türkiye Act No. 6701 entered into force. According to the regulation in Clause 3, “discrimination based on gender, race, colour, language, religion, faith, sect, philosophical or political opinion, ethnic origin, wealth, birth, civil status, medical condition, disability or age is prohibited.”. With this rule, the rights of older persons are protected against all kinds of discrimination. In addition, with the 5th clause of the Turkish Labour Law, the prohibition of discrimination in employment relations was introduced, thus preventing the discriminatory treatment of older persons. Moreover, older employees have the right to demand



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rights they are deprived of in addition to their 4-month wages if they are exposed to discrimination in employment relations.

From the point of economic security, one of the main problems of the elderly is the possibility of being deprived of income and social security to make a living. In addition, with Pensions for Needy, Powerless and Orphaned Turkish Citizens Over the Age of 65 Act No. 2022, the needy and Turkish citizens who are deprived of income are granted a pension without the requirement of insurance contribution.

Working elderly people may face different risk factors in the workplace. In this sense, employers need to take different measures to ensure the occupational health and safety of elderly workers. In this context, employers should also consider the elderly in the risk analysis that they are responsible for. In this context, Clause 10 of the Occupational Health and Safety Act No. 6331 accepts the elderly among the groups that require special policy and obliges the employer to make a risk assessment regarding this issue.

In the name of advocating of workers' rights, The Trade Unions and Collective Labour Law No. 6356 regulates right of organization, the rights to establish and join trade unions. When we look at the spirit of the law, there is an holistic perspective. In this context, there is no upper age limit for organizing, establishing a union and becoming a member.

In 2019, the 1st Council on Aging was convened in our country. In this meeting, the subjects of active aging, care economy, elderly care services, elderly friendly cities and local governments, elderly rights and economy of old age are mentioned. In this context, it is aimed to support the sustainable employment of the elderly workforce, to implement programs to protect and gain the skills demanded by the labour markets, to develop special services and practices to ensure the active participation of the elderly workforce in working life for a longer period of time, to protect the producers and suppliers within the scope of income security and fight against poverty. Solutions have been put forward to strengthen the position of the elderly population becoming as a producer and consumer whose numbers are increasing day by day in working and economic life.

The necessity of developing active aging policies was emphasized in the 11th of the development plans covering the years 2019-2023, which is considered as the roadmap of the bureaucracy in Türkiye. While the 12th development plan was being prepared, a special commission for active aging was established and started its work. In addition, a parliamentary research commission was established in the Grand National Assembly of Türkiye in order to identify the problems of the elderly and to propose solutions. Within the scope of the work of the Commission, it is studied on the determination of current and potential problems that may arise in the future, and solutions on issues such as active aging, employment of elderly individuals and increasing their employability. Final report of the commission is not finished yet and is being studied on it.



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With the foresight that patient care and elderly care services required by the aging population will occupy an important place in the labour market, İŞKUR(Turkish Employment Agency) takes measures to prevent workers and skills shortages in the future. The needed qualified workforce is trained by providing training opportunities on patient and elderly care in vocational training and lifelong learning programs. İŞKUR also works on increasing digital skills within the scope of lifelong learning programs and ensuring sustainable employment and equal opportunity for the elderly. In addition to the existing studies, there is a need to create new models that focus on benefiting from the knowledge and experience of the elderly, and studies in this area need to be intensified.

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;

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.

According to the Article 60 of the Turkish Constitution “Everyone has the right to social security. The state takes the necessary measures to fulfil this right and establishes the organization.”. In line with this constitutional obligation, 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;



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- 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.

Focus Area : “Right to Health and Access to Health Services and Social Inclusion”

The Ministry of Labour and Social Security works with the understanding of creating a healthy and safe working environment for all employees and extending social security, together with the solution of structural problems related to working life.

While many international conventions dealing with vulnerable groups such as women, children and the disabled, there is no convention on the rights of the elderly yet. However, Making autonomous decisions regarding their dignity, lifestyle, private life, needs, care and medical treatment that is the most basic human right for individuals over the age of 65 from groups that require special policy. In this context, the United Nations Principles on Aging dated 1991 and the Convention on the Rights of Persons with Disabilities dated 2006 are a guide for the above-mentioned rights of the elderly and Türkiye is a signatory to these documents.

There are many regulations and examples of good practice in national law regarding the participation of the elderly in economic and social life, accessing to health services. The first one is Clause 10 of the Constitution of the Republic of Türkiye, which states that everyone is



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equal before the law, regardless of language, race, colour, gender etc. The state must ensure this equality. Measures to be taken for children, the elderly, the disabled, the widows and orphans of martyrs of war and duty, the disabled and veterans cannot be contrary to the principle of equality. Statements are about this equality. In addition to above provision prohibiting discrimination, there are also legal regulations prohibiting age discrimination in employment. Chiefs among these are the Labour Act No. 4857 and the Human Rights and Equality Institution of Türkiye (TİHEK) Act No. 6701. In this context, when the loss of rights because of discrimination in the workplace; as a compensation, the wages of the worker up to four months are paid and also act of TİHEK stipulates that if age discrimination is detected, those responsible for the violation will be fined. Moreover, The Trade Unions and Collective Labour Act No. 6356 does not set an upper age limit for establishing a union and becoming a member. Another important issue is the risks encountered in working life. In this context, in the 10th clause of the Occupational Health and Safety Act No. 6331, the elderly are stated among the groups that require special policies to be taken into account in the process of preparing the risk assessment that is to be completed by employer.

In Clause 60 of the Constitution, everyone has the right to social security; It is stated that the state will take the necessary measures to ensure this security and establish the organization. Moreover, in clause 61 of the Constitution, it is stated that the elderly will be protected by the state and the state aid and other rights and facilities to be provided to the elderly will be regulated by law. In this context, social security rights provided to elderly are recognized within the framework of the Social Insurance and General Health Insurance Act No. 5510. Social supports such as old-age pension and home care pension are provided within Pensions for Needy, Powerless and Orphaned Turkish Citizens Over the Age of 65 Act No. 2022, which is another legal regulation.

During the 12th Development Plan was being prepared, a special commission was formed for active aging and studies were started. Moreover, the 1st Council on Aging focused on increasing the digital competencies of the elderly, ensuring the continuity of long-term care service provision, increasing the quality of the personnel to be employed in care services, and disseminating age-friendly cities. In order to ensure the active participation of the elderly in life, the importance of supportive programs for the accessibility and dissemination of studies by local governments is emphasized.

With the aim of increasing the employment opportunities of all the elderly who want to work, teaching agricultural techniques and Technologies, strengthening the elderly working in the agricultural sector, maintaining accessibility to structural and financial services, and encouraging the work of the elderly who can and want to work, new regulations came to the fore in working life within the scope of the Situation of the Elderly and Aging National Action Plan Implementation Program in 2013. In addition, the General Directorate of Services for the Disabled and Elderly under the Ministry of Family, Labour and Social Services, which coordinates the efforts to determine policies and strategies at the national level for the participation of the elderly in social life. Despite the all general framework, there is no special



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legal regulation regarding the elderly. However, in the 2023 Budget Justification, The 2023 proposal for Aging and Assistance Services is 3,329,811,000 TL for need of elderly.

What are the legal provisions, policy frameworks and/or measures in your country that explicitly focus on older persons who are marginalized on the grounds of their sex, disability, race, ethnicity, origin, religion, economic or other status?

In accordance with SSI registrations, 99% of Türkiye's population is covered by the general health insurance and citizens whose income is below a certain amount can benefit from the general health insurance by paying their premiums by the state. In the "Social Insurance and General Health Insurance Law" numbered 5510 and "General Health Insurance Practices Regulation", the persons covered by the general health insurance are specified. The costs of health services related to examinations and treatments of all citizens-including elderly citizens-that are received from health service providers, are covered by the SSI in line with the amounts fixed in the Health Practice Communique (SUT) and its annexes.

Aside from examinations and treatments, the medical devices and medicines of both inpatient and outpatient are reimbursed for all citizens covered by universal health insurance including elderly people. In order to foster good health and well-being of elderly people, age-related diseases and health defects are covered such as cataract for telescopic glasses, whereas the indications required for the reimbursement of many medical devices are common like congenital anomalies, hereditary diseases, etc. In this respect, medical devices that will support social inclusion of elderly people such as non-invasive mechanic ventilation devices, battery-operated wheelchair, disposable underpads are also reimbursed. The medical devices in coverage selected on the basis of cost-effective analysis of scientific commissions considering all aspects including the life quality and expectancy.

What steps have been taken to ensure that every older person has access to affordable and good quality health care and services in older age without discrimination?

People covered by universal health insurance -including elderly people- who have chronic diseases documented with a medical report do not pay outpatient visit co-payments for these documented disease visits, for primary care, for inpatient care (such as intensive care treatment), and for emergency applications.

The health services provided by the centers or units within the scope of the "Regulation on the Delivery of Home Care Services" published by the Ministry of Health are not covered by universal health insurance. However, the costs of prescriptions issued by these centers are covered by Social Security Institution in accordance with the procedures and principles included in the SUT and its annexed lists to those who are provided with this service.

When Influenza vaccine are prescribed to people aged 65 and over, and those staying in nursing homes once a year between September and February, the costs of these vaccines are covered by universal health insurance without the condition of a health report.



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Palliative care treatment provided by inpatient health facilities affiliated to the Ministry of Health is financed by universal health insurance in order to eliminate the problems faced by the patients and their families and to increase their quality of life.

High-impact policies are offered to reduce the gap between disabled and healthy children, which should be considered positive discrimination against young people rather than age discrimination. For instance, hearing aids reimbursement prices are higher for 0 to 4, 5 to 12, 13 to 18 age groups, with decreasing ratios respectively, in order to bolster communication and learning skills and education of children and teenagers. Another example is that adult type I diabetics can use maximum 150 test strips monthly, whereas this limit does not exist for diabetics under 18.

According Article 5 of Labour Law of Türkiye, discrimination based on language, race, sex, political opinion, philosophical belief, religion and sex or similar reasons is permissible in the employment relationship.

If the employer violates the above provisions in the execution or termination of the employment relationship, the employee may demand compensation up his (her) four months' wages plus other claims of which he (she) has been deprived. While the provisions of Article 20 are reserved, the burden of proof in regard to the violation of the above – stated provisions by the employer rests on the employee. However, if the employee shows a strong likelihood of such a violation, the burden of proof that the alleged violation has not materialised shall rest on the employer.

What legal age limits exist in your country that prevent the full and equal participation of older persons in societies in areas such as employment, education, healthcare, financial goods and services, or others?

There is no age limit stipulated in the relevant legislation for older people's participation in the labour force and employment.