

# LGBTI+ ELDERS: SITUATION IN TURKEY

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AND

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# AROUND THE WORLD





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## LGBTI+ ELDERS: SITUATION IN TURKEY AND AROUND THE WORLD

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# IDENTIFYING THE CURRENT SITUATION IN TURKEY REGARDING THE RIGHTS OF LGBTI+ ELDERS AND RECOMMENDATIONS FOR ENSURING COMPLIANCE WITH INTERNATIONAL STANDARDS

## INTRODUCTION

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A cohort of lesbians, gays, bisexual, intersex and transgender, trans+ (LGBTI+) persons came together for enjoying the freedom of association in the mid-90s, most of whom were the activists and university students in their 20s. Following the 25 years of struggle, since this generation initiated the movement aged around fifty years of age, a set of challenges and needs in addressing LGBTI+ aging have been taken into account during agenda-setting studies of the movement. Despite the fact that there was a small number of trans women acting together before the LGBTI+ movement was initiated, that LGBTI+ generation was almost invisible and thin on the ground. For this reason, it was not possible to include LGBTI+ aging studies on the agenda unless the aging of the generation initiated the movement started to become apparent. Kirkindan-SonraLubunya/40+ LGBTI+ Initiative, organized under 17 May Association, was born for meeting this need.

The LGBTI+ movement, which has experiences of getting the results of its struggles over a period of ten years, takes into account the human rights of LGBTI+ elders as an urgent matter and started the process of strategy determination and the road map. The growing negative stance taken against LGBTI+ persons by the regulations and public policies has revealed once again that, the studies to be conducted on LGBTI+ aging for identifying the needs of LGBTI+ elders and the ways to meet those needs, will not be taken into consideration by public authorities in the near future. LGBTI+ persons will have to seek the solution themselves for their needs.

LGBTI+ movement has taken the first steps for collecting the information and exchange of ideas in order to meet the needs in the related field, since there was no study conducted in Turkey in that regard. Moreover, at a meeting held



with LGBTI+ activists on 14-15 December 2019, an initiative was formed to identify problems and solutions.<sup>1</sup> At this meeting, the heteronormative nature of social services, discriminatory barriers in accessing the right to housing, inter-generational communication barriers, barriers to access support and care mechanisms, and double-whammy discrimination were identified as the major problems.

To find the solutions of these problems, the significance of disseminating the information on the good examples and good legal frameworks was accentuated in this meeting and by the studies of 17 May Association. The terminus a quo of this report herein is the national and international regulations, good examples and academic studies in the field of aging. In addition to that, it is aimed with this report to provide a roadmap and recommendations on meeting the needs of LGBTI+ elders while highlighting the rights of LGBTI+ elders.

This report only includes regulations in the field of aging. However, the practices regarding inheritance rights gaining importance with aging become an indispensable item on the agenda of the LGBTI+ movement. It is observed that there is an increasing demand for getting information from LGBTI+ organizations regarding inheritance rights. Turkey's Civil Code and Constitution are regulated in a way that is just recognizing the legal rights of heterosexual family structures by ignoring other forms of civil partnerships. From time to time, this situation severely limits and worries LGBTI+ persons, who experience violent exclusion by their assigned families, regarding the disposition of the owned assets at the time of death. According to the Civil Code, all persons, including LGBTI+ persons, as testators, are not wholly free to dispose of their entire estates as they please. The law limits their freedom in favor of their close relatives, by means of the reserved portion, even by a valid will. The succession here is divided in two parts: an imperative fraction "the reserved portion" and "the available portion". The available portion can freely be given to anyone or institution assigned by a valid will. There are only two ways and regulations that can be used indirectly for free disposition of the owned assets to persons and institutions at the time of death other than those who have the right for reserve portions. The first of these is the Right of Usufruct regulated under Article 794 and the consequent articles of the Civil Code, and the second of these is the Contract on support for life regulated in Article 611

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<sup>1</sup> <https://kaosgl.org/haber/lubunya-40-yol-haritasini-cizdi>

and the consequent articles of the Civil Code. Although inheritance right is not an issue that only concerns the elderly, it turns into one of the issues that can be addressed in case of LGBTI+ elders. Although it lies beyond this report's scope, it constitutes one of the issues that should be considered in studies on LGBTI+ aging. This report aims to highlight the importance of the protection of LGBTI+ persons who may face discrimination in all areas, against other forms of discrimination, including the violations of human rights of elders. Among these problems, new forms of discrimination such as the aforementioned reserved portion in inheritance law attract the attention. We hope that this report will contribute to the identification of all possible needs and problems and to produce recommendations for solutions.

# EXISTING LEGISLATION AND PRACTICES ON THE RIGHTS OF THE ELDERLY IN TURKEY

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## Constitutional Framework

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Under the Article 10, Equal Protection Clause prohibiting discrimination, of the Constitution of the Republic of Turkey, “Age discrimination” is not provided as a protected category, but it is stated that the special measures to be taken and positive discrimination for seniors shall not be considered as the violation of the principle of equality:

*“Measures to be taken for children, the elders, persons with disabilities, widows and orphans of martyrs as well as for the war invalids and veterans shall not be considered as violation of the principle of equality”*

Other regulations regarding age in the Constitution are as follows:

### Working Conditions and Right to Rest and Leisure

*Article 50 – No one shall be required to perform work unsuited to their age, sex, and capacity.*

### Development of Sportive Activities and Arbitration

*Article 59 – The State shall take measures to develop the physical and mental health of Turkish citizens of all ages, and encourage the spread of sportive activities among the masses.*

### Persons Requiring Special Protection in Terms of Social Security

*Article 61 –The State shall protect the widows and orphans of martyrs of war and assigned duty, together with war invalids and veterans, and ensure that they enjoy a decent standard of living. The State shall take measures to protect the persons with disabilities and secure their integration into community life. The seniors shall be protected by the State. State assistances and other rights and benefits of the seniors shall be regulated by law. The State shall take all kinds of measures for the social reintegration of children in need of protection.*



*With this aim, the State shall establish the necessary institutions or facilities, or designate bodies in that regard.*

### **Securing tenure of judges and public prosecutors**

*Article 139 – Judges and public prosecutors shall not be dismissed, or forced into retirement before reaching the age prescribed by the Constitution; nor shall they be deprived of their salaries, allowances or other rights relating to their status, even as a result of the abolition of court or position. Exceptions indicated in law are reserved, relating to those convicted for an offense requiring dismissal from the profession, those who are definitely unable to perform their duties on account of health status, and those found professionally unfit.*

### **Judges and Public Prosecutors**

*Article 140 – Judges and public prosecutors shall exercise their duties until they reach the age of sixty-five; the age limit, promotion, and the retirement of military judges shall be prescribed by law.*

### **Term of office of the Members of the Court and termination of their membership**

*Article 147 – The members of the Constitutional Court shall retire when they reach the age of sixty-five. The appointment of the members to another office whose term of office expires prior to their mandatory age of retirement and matters regarding their personnel status shall be stipulated by law.*

## **Legal & Regulatory Framework**

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The legal regulations included in various laws regarding the elders are as follows:

### **a- Law on Metropolitan Municipalities<sup>2</sup>**

“Article 7- Article 7- Metropolitan municipalities shall have the following duties, powers and responsibilities:

...

<sup>2</sup> <https://www.ailevecalisma.gov.tr/eyhgm/mevzuat/ulusal-mevzuat/kanunlar/buyuksehir-belediyesi-kanunu/>



v) Manage and develop health care centers, hospitals, mobile health care units and social and cultural services of all kinds for adults, elderly people, persons with disabilities, women, young people and children, and to this end, establish, operate or cause to operate social facilities, open vocational training and skills courses; cooperate with universities, colleges, vocational schools, public entities and civil society organizations in the provision of such services;

d) Among the services provided for in the first paragraph, exercise powers conferred on municipalities by the Law No. 775 on Squatter Houses, build car parks, sporting, leisure and recreational facilities and parks; provide social and cultural services for elderly people, persons with disabilities, women, young people and children; open vocational training and skills courses; build, and carry out maintenance work on and repairs to health care, educational and cultural facilities and buildings, and protect cultural and natural assets and the historical urban fabric; and provide services for the development of areas and functions of historical significance to the town”.

### **b- Law on special provincial administration**<sup>3</sup>

Duties and responsibilities of the special provincial administration

Article 6

The special provincial administration services shall be provided at the nearest places to the citizens using the most appropriate methods. During the performance of such services, the methods applied shall be appropriate for persons with disabilities, elderly, persons in need and low-income citizens.

Voluntary participation in services of the special provincial administration

Article 65- The special provincial administration shall carry out programs designed to encourage the voluntary participation of individuals with a view to ensuring solidarity and participation in the province’s provision of health care, educational, sporting and environmental services, traffic and cultural services and services for the elderly people, women, children, persons with disabilities, the poor and the persons in need, and to increase effectiveness, economy and efficiency in service provision.

<sup>3</sup> <https://www.ailevecalisma.gov.tr/eyhgm/mevzuat/ulusal-mevzuat/kanunlar/il-ozel-idaresi-kanunu/>

### c- Social Insurance and General Health Insurance Law<sup>4</sup>

Rights granted by invalidity insurance and conditions of being the beneficiary

Article 26- The right granted by invalidity insurance to insurance holders is to provide invalidity pension. (called as Alzheimer pension).

In order to provide insurance holder with invalidity pension, the insurance holders shall;

- a) be deemed to be disabled as per Article 25,
- b) be holding insurance for a period of minimum ten years and should have paid totally 1800 premium days or in case the insurance holder is having disabilities to the extent of being in need of permanent care of another person, should have notified 1800 days of invalidity (or Alzheimer), elder or survivor insurance premiums, without seeking any period for holding insurance,
- c) have submitted a written request to the Institution after quitting the work they were working under insurance or closed or transferred the workplace due to their invalidity for obtaining the right of invalidity (Alzheimer) pension. However, it is obligatory that the individuals who are deemed to be insurance holder as per item (b) of paragraph one of Article 4 should have paid entire premiums or any kind of debts related with premiums, including the universal health insurance.

Rights granted by elderly insurance (old-age pension pay) and conditions of being the beneficiary

Article 28- The rights granted by old-age pension pay to the insurance holder are as follows:

- a) Providing old-age pension pay
- b) Providing full payment

(Amendment in second paragraph: 17/4/2008 - 5754/Art. 16) For the individuals who are deemed to be insurance holder with this Law for the first time;

<sup>4</sup> <https://www.ailevecalisma.gov.tr/eyhgm/mevzuat/ulusal-mevzuat/kanunlar/sosyal-sigortalar-ve-genel-saglik-sigortasi-kanunu/>



- a) Old-age pension pay shall be granted provided that the fact that the related person is female and over 58 or is male and over 60 and that minimum 9000 premium days of invalidity (Alzheimer), old-age and survivor insurance are notified. However, the condition on the number of premium days shall be applied as 7200 premium days for the insurance holders under clause (a) of paragraph one of Article 4.
- b) the condition regarding age stated in clause (a);
  - 1) shall be applied as 59 for females, 61 for males between 1/1/2036 and 31/12/2037,
  - 2) shall be applied as 60 for females, 62 for males between 1/1/2038 and 31/12/2039,
  - 3) shall be applied as 61 for females, 63 for males between 1/1/2040 and 31/12/2041,
  - 4) shall be applied as 62 for females, 64 for males between 1/1/2042 and 31/12/2043
  - 5) shall be applied as 63 for females, 65 for males between 1/1/2044 and 31/12/2045
  - 6) shall be applied as 64 for females, 65 for males between 1/1/2046 and 31/12/2047,
  - 7) shall be applied as 65 for both females and males as of 1/1/2048.

However, the age limits applicable on the date on which the number of premium days stipulated in clause (a) is reached shall be used in applying the age limits.

Insurance holders may benefit from old-age pension, provided that three years is added to the age limits in clauses (a) and (b) but not exceeding the age of 65 and that minimum 5400 premium days of invalidity (Alzheimer), old-age and survivor insurance premiums are notified on behalf of them.

The insurance holders, having an illness or invalidity to the extent requiring to be deemed to be disabled as per paragraph two of Article 25 before starting to work for the first time and therefore cannot benefit from the invalidity (Alzheimer) pension, shall be provided with the old-age pension, provided

that the fact that they are insurance holders for a minimum of fifteen years and that minimum 3960 premium days of Alzheimer, old-age and survivor insurance premiums are notified.

Based on the review of reports and the medical documents the report is based on, prepared duly by the providers of healthcare services authorized by the Institution, the insurance holders whose rate of loss for incapacity to work is found by the Health Committee of the Institution to be;

- a) between 50% and 59%, shall have the right to receive old-age pension, without seeking the condition in clause (a) of paragraph two, provided that they are insurance holders for a minimum of 16 years and have notified 4320 premium days,
- b) between 40% and 49%, shall have the right to receive old - age pension, without seeking the condition in clause (a) of paragraph two, provided that they are insurance holders for a minimum of 18 years and have notified 4680 premium days,

regarding invalidity, old - age and survivors insurance premiums. These may be held subject to audit/medical check pursuant to the provisions of Article 94.

The age limit stipulated in paragraph two shall be applied as 55 for the insurance holders who continuously or in rotations working underground facilities for mining determined by the Ministry.

Insurance holders, who have reached the age of 55 and are identified as suffering from premature aging, shall benefit from old – age pensions, on the condition that they fulfill the other requirements stipulated in that regard.

(Add. Para.: 17/4/2008 - 5754/Art. 16) One fourth of the paid premium days after the enactment of this Law, of the persons, among the female insurance holders who request to be provided with retirement or old-age pension, who have a child with disabilities to the extent of being in need of permanent care of another person, shall be added to the sum of number of premium payment days and these periods added shall be subtracted from the retirement age limits.

(Amendment in para. 8: 17/4/2008 - 5754/ Art. 16) In order to benefit from the old - age pensions provided in the above paragraphs, providing termina-



tion of the connection is obligatory, for insurance holders indicated in clause (a) of paragraph 1 of Article 4 to provide notifications after quitting their jobs, or for the insurance holders indicated in clause (b) to submit a written request following notification whether to end the activity subject to insurance, and for insurance holders indicated in clause (c) of paragraph 1 of Article 4 upon the necessary approval obtained from the competent authority related to the retirement following their requests

In order to provide old - age pension for insurance holders stated in clause (b) of paragraph 1 of Article 4, it is also obligatory that they should not have premiums or any kind debts related with premiums due to their own insurance status, including the universal health insurance premium, as of the date of written request.

Procedures and principles on the implementation of this Article shall be regulated by the Regulation to be issued by the Institution.

#### **d- Law on Social Services**<sup>5</sup>

##### **Purpose:**

**Article 1** - The purpose of this Law is to regulate the principles and procedures of social services provided to families, children, persons with disabilities, elders and other persons in need of protection, care or assistance, and the establishment, duties, authorities and responsibilities, activities and revenues of the organization established to provide these services.

##### **Definitions:**

**Article 3** – The terms contained in the laws such as;

e) “Elder person in need”, refers to an elder person in social or economic deprivation and in need of protection, care and assistance,

4. “Nursing Homes”; refer to residential social service institutions established for protection and care of elder people in need, in a peaceful environment meeting their social and psychological needs,

9. (Add. By 30/5/1997 – Decree Law-572/Art.5; Amendment: 6/12/2017-7063 / Art. 5) “Active Living Centers” refer to social service

<sup>5</sup> <https://www.ailevecalisma.gov.tr/eyhgm/mevzuat/ulusal-mevzuat/kanunlar/sosyal-hizmetler-kanunu/>

institutions that provide guidance and support services for elders and persons with disabilities and their families, as well as day care at home, in order to increase the quality of life of those individuals and to contribute to their active participation in social life,

13. (Add. 1/2/2007-5579/Art. 1; Amendment: 6/2/2014-6518/Art.14) "Social Housing Service Units"; refer to residential social service units serving children, women, persons with disabilities, elder people and people in need of care or accommodation.

15. (Add. By 11/10/2011-Decree Law - 662/Art. 10) "Social Service Center"; refers to the day care centers identifying those in need with social service intervention and monitoring, providing protective, preventive, supportive, developing services to children, young persons, women, men, persons with disabilities, elder persons and their families together and in the most easily accessible manner, and refer to centers responsible for providing and coordinating these services in cooperation with the public institutions and organizations, local governments, universities, non-governmental organizations and volunteers, when deemed necessary.

### **General Principles:**

**Article 4** - General principles regarding social services are as follows:

c) In the implementation of social service programs, priority is given to the child in need of protection, persons with disabilities and elder persons in need.

l) All the necessary arrangements and measures shall be taken care of in order to ensure that persons with disabilities and elder persons in need can continue their lives in a healthy, peaceful and safe manner, and ensure that those in need are cared for and provided with rehabilitation in such a way that they can manage their lives themselves in a productive manner, and ensure that those can benefit from continuous care and measures in case there is no treatment option.

Other principles regarding persons with disabilities and elder persons in need of protection, care and assistance are:

Article 26 - The principles regarding the identification and review of the family, persons with disabilities and elder persons as well as other persons in need of protection, care and assistance, and the social services provided to them are stipulated by a regulation.



**Add. Article 10-** (Add. 6/2 / 2014-6518 / Art. 23)

For Turkish citizens who are over the age of 65 and on the basis of the sum of all kinds of income regardless of whatever, whose average monthly income per capita within the household is less than one third of the monthly net amount of the minimum wage, care services can be provided by procurement method it is subject to, in line with clause (b) of the paragraph 1 of Article 21 of the Law No. 4734.

**Add. Article 11-** (Add. 6/2/2014-6518 / Art.24)

With the exception of those who benefit from an income or pension right under any name from any of the social security institutions and those who work in a job with a compulsory social insurance policy in terms of long-term insurance branches, the elder persons and persons with disabilities shall be provided with monthly net allowance without any deduction over the amount to be determined by the central government budget law each year; on the condition that they are eligible for benefiting from the free care services of social service institutions of the Ministry of Family, Labor and Social Services and Darülaceze; or benefiting from the care services paid by Ministry of Family, Labor and Social Services in private social service institutions; or benefiting from official social service institutions supported by Ministry of Family, Labor and Social Services by meeting the conditions for accessing free care services provided by social service institutions of Ministry of Family, Labor and Social Services. The procedures and principles regarding the implementation of this article are stipulated by a regulation to be prepared jointly by the Ministry of Family, Labor and Social Services and the Ministry of Finance.

**e- Law on Human Rights and Equality Institution of Turkey<sup>6</sup>**

**Equal Protection and non-discrimination**

ARTICLE 3 (1) Everyone is equal in the enjoyment of legally recognized rights and freedoms.

(2) Within the scope of this Law, all sorts of discrimination based on gender, ethnicity, skin color, language, religion, beliefs, philosophical and political views, national origin, wealth, birth status, marital status, medical conditions, disability, and age are prohibited.

6 <https://www.ailevecalisma.gov.tr/eyhgm/mevzuat/ulusal-mevzuat/kanunlar/turkiye-insan-haklari-ve-esitlik-kurumu-kanunu/>



## Cases in which the claim of discrimination cannot be claimed

**ARTICLE 7-** (1) The circumstances and exceptions specified in the following cases, among others, that cannot be deemed as discrimination prohibited by the Law are as follows:

c) different treatment in appropriate manner because of the existence of compulsory occupational requirements in the field of employment; age limitations due to the obligations of the job, and age-specific treatment in a manner proportionate and necessary for the relevant employment.

### f- Law on Granting Pensions to destitute, weak and helpless Turkish Citizens 65 years and older<sup>7</sup>

The procedures and principles of benefiting from the law are stipulated by a regulation<sup>8</sup>.

## Regulations

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### α- Regulation on Nursing Homes and Elderly Care and Rehabilitation Centers<sup>9</sup>

The purpose of the regulation is specified as follows, and the procedures and principles regarding care services are stipulated by the regulation;

**Article 1** - The purpose of this Regulation is to identify the elder people over 60 who will benefit from the care services in Nursing Homes and Elderly Care and Rehabilitation Centers, to ensure them the care and rehabilitation services, to determine the type and quality of the service to be provided, and to regulate the type and quality of the services as well as the duties, authorities and responsibilities of the personnel.

7 <https://www.ailevecalisma.gov.tr/eyhgm/mevzuat/ulusal-mevzuat/kanunlar/65-yasini-doldurmus-muhtac-gucsuz-ve-kimsesiz-turk-vatandaslarina-aylik-baglanmasi-hakkinda-kanun/>

8 <https://www.ailevecalisma.gov.tr/eyhgm/mevzuat/ulusal-mevzuat/yonetmelikler/65-yasini-doldurmus-muhtac-gucsuz-ve-kimsesiz-turk-vatandaslari-ile-engelli-ve-muhtac-turk-vatandaslarina-aylik-baglanmasi-hakkinda-yonetmelik/>

9 <https://www.ailevecalisma.gov.tr/eyhgm/mevzuat/ulusal-mevzuat/yonetmelikler/huzurevleri-ile-huzurevi-yasli-bakim-ve-rehabilitasyon-merkezleri-yonetmeligi/>



### **b- Regulation on the Principles of Establishment and Operation of Nursing Homes to be opened within Public Institutions and Organizations<sup>10</sup>**

The purpose of the regulation is specified as follows, and which procedures and principles regarding care services will be followed are stipulated in the regulation;

#### **Purpose:**

**Article 1-** The purpose of these Regulations is to determine the procedures and principles for the opening, operation, physical conditions, personnel conditions, audit and supervision of nursing homes to be opened within public institutions and organizations in accordance with the current legislation and to ensure that they provide services at a level that complies with the modern understanding and conditions.

### **c- Regulation on the Private Nursing Homes and the Nursing Home Elderly Care Centers<sup>11</sup>**

The purpose of the regulation is specified as follows, and which procedures and principles regarding care services will be followed are stipulated in the regulation;

#### **Purpose**

**Article 1 – (1)** The purpose of these Regulations is to define the procedures and principles for the opening, service standards, personnel status, operational conditions, fees, supervision, transfer and closing of nursing homes and nursing home elderly care centers to be opened by real entities as well as special legal entities.

### **d- Regulation on the Provision of Healthcare Services at Home by the Ministry of Health and its Affiliates<sup>12</sup>**

#### **Definitions and abbreviations**

10 <https://www.ailevecalisma.gov.tr/eyhgm/mevzuat/ulusal-mevzuat/yonetmelikler/kamu-kurum-ve-kuruluslari-bunyesinde-acilacak-huzurevlerinin-kurulus-ve-isleyis-esaslari-hakkinda-yonetmelik/>

11 <https://www.ailevecalisma.gov.tr/eyhgm/mevzuat/ulusal-mevzuat/yonetmelikler/ozel-huzurevleri-ile-huzurevi-yasli-bakim-merkezleri-yonetmeligi/>

12 <https://www.ailevecalisma.gov.tr/eyhgm/mevzuat/ulusal-mevzuat/yonetmelikler/saglik-bakanligi-ve-bagli-kuruluslari-tarafindan-evde-saglik-hizmetlerinin-sunulmasina-dair-yonetmelik/>

**Article 4 – (1) Definitions of terms included in this Regulation are as follows:**

b) Family physician(s) (FM or PCP): is/are the specialist primary care physician(s) who receive the relevant trainings prescribed by the Institution or the specialist family physicians, who work full-time and provide mobile health-care services when needed and who are liable to provide personal protective health services and primary care diagnosis, treatment and rehabilitative health services in a comprehensive and continuous manner in a specified place in a non discriminative way, regardless of age, gender and disease.

j) Patient: Individuals who have difficulty in accessing health care due to their illness and / or old age, which severely impairs the quality of life, and who requests health services at home and in a family environment,

**Home Health Service Units****Types of the Units**

**Article 9 – (1) Units;** are established in accordance with the criteria specified in this Regulation in order to evaluate the demands of the patients or their relatives who apply and in order to provide home health care services to the patients whose applications are accepted, and in order to provide the transfer of patients to the hospital when necessary.

(2) The Units are divided into three types:

a) T Type Home Health Service Units: These are units established under Community Health Centers (CHC/TSM). They are assigned for providing home health care with priority. The team consists of three people: the physician who got training on home healthcare, elderly care technician/home patient care technician and assistant healthcare staff. In cases where there is no elderly care technician / home patient care technician, an assistant healthcare staff is included in the team. If needed, psychologists, social workers and similar support staff take part in the provision of the service. At least one T-type unit is established in places where the number of patients provided home healthcare services daily is ten or more. A common service unit can be opened in accordance with the same criteria in small districts that are close to each other.

b) H Type Home Health Service Units: are the units that are established within the hospitals of Public Hospitals Authority of Turkey. The units are primarily



obliged to provide services that cannot be provided by T-type units such as consultation by specialist physician and physiotherapy. These provide support for T-type units in line with the planning of the Coordination Center. The Unit consists of three people: physician / specialist physician who got training on home health care, elderly care technician / home patient care technician and assistant healthcare staff. In the absence of an elderly care technician/home patient care technician, an assistant healthcare staff is included in the team. If needed, psychologists, social workers, physiotherapists, dieticians and similar support staff take part in the provision of the service. Specialist physicians or physicians are included in the team according to the needs of the patient. According to the grouping in which the hospital roles are determined, at least one H type unit is established in the districts where A, B and C type hospitals are located.

### e- Regulations on the Payment of Allowance to the Persons with Disabilities and Elders provided Care in the Social Service Organizations<sup>13</sup>;

#### **Purpose and Scope**

**Article 1 – (1)** The purpose of this regulation is to regulate the procedures and principles regarding the payment of monthly allowance to the elderly and persons with disabilities; on the condition that they are eligible for benefiting from the free care services of social service institutions of the Ministry of Family, Labor and Social Services and Darülaceze; or benefiting from the care services paid by Ministry of Family, Labor and Social Services in private social service institutions; or benefitting from official social service institutions supported by Ministry of Family, Labor and Social Services by meeting the conditions for accessing free care services provided by social service institutions of Ministry of Family, Labor and Social Services. The procedures and principles regarding the implementation of this article are stipulated by a regulation to be prepared jointly by the Ministry of Family, Labor and Social Services and the Ministry of Finance; with the exception of those who benefit from an income or pension right under any name from any of the social security institutions and those who work in a job with a compulsory social insurance

13 <https://www.ailevecalisma.gov.tr/eyhgm/mevzuat/ulusal-mevzuat/yonetmelikler/sosyal-hizmet-kuruluslarinda-bakimi-saglanan-engelli-ve-yasli-bireylere-harclik-odenmesine-iliskin-yonetmelik/>

policy in terms of long-term insurance branches.

### **The persons to be provided with monthly net allowance**

**Article 4 –(1)** With the exception of those who benefit from an income or pension right under any name from any of the social security institutions and those who work in a job with a compulsory social insurance policy in terms of long-term insurance branches,

- a) The elder persons and persons with disabilities benefiting from the free care services of social service institutions of the Ministry
- b) Of the elder persons and persons with disabilities resided in the official social service institutions supported by Ministry, the ones meeting the conditions for accessing the free care services of social service institutions of the Ministry
- c) The elder persons and persons with disabilities benefiting from the free care services of Darülaceze
- ç) The elder persons and persons with disabilities benefiting from the care services in private social service institutions paid by Ministry or benefiting from the free quota of Ministry shall be provided with allowance. The procedures and principles regarding the allowance to be paid are specified by the relevant articles of the regulation.

### **f- Regulation on Social Service Centers**<sup>14</sup>

#### **Purpose**

**Article 1 – (1)** The purpose of this regulation is; to determine the principles and procedures of the services provided by social service centers, where social service intervention and monitoring are performed and where social services including protective, preventive, supportive, developing services and guidance and counseling services are provided to children, young persons, women, men, persons with disabilities, elder persons and their families together and in the most easily accessible manner in cooperation with the public in-

<sup>14</sup> <https://www.ailevecalisma.gov.tr/eyhgm/mevzuat/ulusal-mevzuat/yonetmelikler/sosyal-hizmet-merkezleri-yonetmeligi/>



stitutions and organizations, local governments, universities, non-governmental organizations and volunteers, when deemed necessary, and to determine the procedures and principles regarding the establishment and operation of those centers affiliated to the Ministry of Family, Labor and Social Services as well as the duties, powers and responsibilities of the staff working in the center,

### **Duties of the centers**

**Article 7 - (1)** The duties of these centers are as follows:

- c) In order to ensure the persons with disabilities and elder persons to participate effectively in social life; to carry out social service activities for the them, to ensure cooperation and coordination between relevant public institutions and organizations and voluntary organizations in this field.
- e) To provide guidance services in the areas needed to families living with persons with disabilities and elder persons at home and to families receiving home care services.

### **g- Regulations on the Free or Discounted Travel Cards<sup>15</sup>**

#### **Free or discounted travel right for persons aged 60 years and over**

**Article 5 –(1)** Turkish citizens aged sixty-five years and over benefit free of charge from the inner-city lines of railways and maritime lines or from the city buses operated by municipalities, by companies- associations- establishments and enterprises of municipalities, or by private persons or companies authorized by municipalities.

(2) Turkish citizens aged sixty-five years and over can benefit from the intercity lines of railways and maritime lines with 50% discount.

(3) Institutions and organizations to which public transportation vehicles belong, municipalities, companies, associations, establishments and enterprises of municipalities, may provide persons between the ages of sixty and sixty-five with the right to benefit from public transportation free of charge or at a discount.

<sup>15</sup> <https://www.ailevecalisma.gov.tr/eyhgm/mevzuat/ulusal-mevzuat/yonetmelikler/ucretsiz-veya-indirimli-seyahat-kartlari-yonetmeligi/>

## h- Regulation on Day Care and Home Care Services to be Provided in Elderly Service Centers<sup>16</sup>

### **Purpose**

**ARTICLE 1** - (1) The purpose of this Regulation is; to determine the nature of day care and home care services for the elderly who do not prefer nursing home care, and the procedures and principles regarding the units and staff performing these services.

### **Scope**

**ARTICLE 2** - (1) This Regulation covers the activities of day care and home care services to be provided to the elderly by the elderly service centers to be opened by the General Directorate of Social Services and Child Protection Agency and other public institutions and organizations, real persons and private legal entities.

### **Definitions**

**ARTICLE 4** - (1) In this Regulation;

- a) Care / service plan: refers to the detailed written plan, which is prepared separately for each elder person by the service planning service in the elderly service center, considering the characteristics and needs of the elder persons and approved by the responsible manager of the center, covering the content and frequency of the service to be provided to the elder persons,
- b) Unit: refers to the unit providing day care services and the home care service provided at home,
- c) Home care service unit: refers to the unit carries out social, physical and psychological support services for the purpose of improving the environment of elders and helping with daily life activities of elders whose mental health status is not challenged and who does not need medical care and does not have any disability, in cases where the support by the persons in the same household is insufficient for the care of an elder person in spite of other support factors such as neighbors or relatives.

<sup>16</sup> <https://www.ailevecalisma.gov.tr/eyhgm/mevzuat/ulusal-mevzuat/yonetmelikler/yasli-hizmet-merkezlerinde-sunulacak-gunduzlu-bakim-ile-evde-bakim-hizmetleri-hakkinda-yonetmelik/>



- c) General Directorate: refers to General Directorate of Social Services and Child Protection Agency,
- d) Day care service unit: refers to the unit providing services to elder persons who live at home with their families, relatives or live alone and to elder persons suffering from dementia and Alzheimer, in order to improve their living environment; to ensure them to enjoy their leisure time; to help them to meet their social, psychological and medical needs; to provide guidance and vocational counseling; to provide support services in daily life activities or regarding the issues they could not overcome by themselves; to develop their social relations by organizing social activities by establishing activity groups in line with their interests; to increase their activities and to provide services to increase the quality of life of the elder persons by providing solidarity with their families when necessary,
- e) Provincial Directorate: refers to Provincial Directorate of Social Services,
- f) District Directorate: refers to District Directorate of Social Services.
- g) Public institutions and organizations: refer to the institutions with general and special budget, municipalities and circulating capital enterprises established by these institutions, public economic enterprises, other public institutions established by special laws, which can open elderly service centers,
- ğ) Center: refers to elderly service center that is opened and operates to provide day care and home care services in order to increase the quality of life of elder persons.
- h) Professional staff: refers to social worker, psychologist, doctor, nurse, physiotherapist, dietician and occupational therapist,
- ı) Private legal entities: refers to associations, foundations and companies established in accordance with private law provisions,
- ı) Elderly/elder person: refers to a person who needs social, physical and psychological support, whose mental status is not challenged and who is over the age of sixty, and who has no infectious disease or disability,
- ı) Elderly care worker: refers to the person who has graduated from the relevant departments of secondary education / higher education in elderly



care or who has participated in the certificate programs opened by the Ministry of National Education and the relevant departments of the universities and has graduated from primary school at least.

The regulation includes regulations on how the elderly care will be carried out, what responsibilities will be undertaken by the assigned staff, and on what principles they will fulfill these responsibilities.

### **Admission Conditions for State-Run Darulaceze Nursing Home**

“Having good mental health status” and “not having infectious diseases such as HIV” are listed among the conditions of admission to Darülaceze, which provides nursing home services being run by the state. In practice, it has not yet been identified whether these regulations are used against elderly LGBTI+ persons;

### **Conditions for Admission to Darülaceze**

The conditions for children, persons with disabilities and elder persons to be admitted to Darülaceze are as follows.

According to the Article 14 of Darülaceze’s Code of Practice;

- 11)** The persons should not have a mental disorder
- 12)** The persons should not have an infectious or a contagious disease

### **Admission Procedures in Darülaceze**

- 2)** Required documents for application;
  - Application Letter stating personal situation in a clear way,
  - Photocopy of the ID Card of the person requesting the service,
  - Psychiatry Report obtained from the state hospital,
  - Test Results for Infectious diseases (HbsAg, Anti HCV, HIV, VDRL)
  - • Chest X-Ray<sup>17</sup>

<sup>17</sup> <https://www.darulaceze.gov.tr/Kabulislemleri/Kabulislemleri>



## CURRENT SITUATION AND GOOD PRACTICES ON THE RIGHTS OF THE ELDERLY IN TURKEY

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Regarding the rights of the elderly, Turkey cannot be ranked among the good countries in the world since it fails to adopt and promulgate the necessary regulations in terms of the rule of the social state. However, it can be said that there are various policies and services regarding the field. Current situation on the rights of the elderly in Turkey and good practices for LGBTI+ elders' benefit are evaluated below in two different parts.

### I- Current Human Rights Situation for Older Adults in Turkey:

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Due to the fact that cisgender and heterosexual family model protected by the Constitution gains importance in public policies of Turkey, elder care is a service loaded weight of households and women in terms of social values. On the other hand, it is a common situation that we frequently encounter that the unmarried family members have to bear the whole burden of elderly care in line with the social values. Therefore, we can easily assume that LGBTI+ persons also bear elderly care burden since Turkey does not have marriage equality.

In addition, nursing home services for the elderly from the Ottoman era until today can be considered a practice to meet the care needs at least at a minimum level. It can be said that the low level of economic aids provided by the state to those who provide care for the patients and the elderly in recent years reflect an understanding of keeping the women at home, sending them back to their proper place in patriarchal terms by producing solutions with minimum cost, rather than thoroughly undertaking and covering financially.<sup>18</sup>

In Turkey's legal framework having limited number of legal regulations for LGBTI+ persons, there is no legislation for elderly LGBTI+ persons.

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18 <https://ailevecalisma.gov.tr/tr-tr/sss/sosyal-yardimlar-genel-mudurlugu/evde-bakim-yardimi/>

Public policies towards LGBTI+ people gradually follow a course towards restricting fundamental rights and freedoms. Istanbul Convention's provisions prohibiting discrimination on SOGIESC (sexual orientation and gender identity) in domestic violence cases are used for justifying Turkey's possible withdrawal from the convention as requested by the conservative wing of the government<sup>19</sup>. The Istanbul Convention, which includes regulations to prevent discrimination against LGBTI+ people in case of violence, has not yet been fully adopted by the domestic law, and no changes, regulations and practices protecting LGBTI+ people have yet been implemented. However, even the state's theoretical commitments not applied in practice can form the basis for LGBTI+ exclusionary politics and discussions. There is no practice implemented regarding the LGBTI+ inclusive social services such as counseling centers, shelters, etc., which should be put into practice for protection against violence in line with the Istanbul Convention. In summary, there is no LGBTI+ inclusive positive public policies in practice in Turkey that LGBTI+ elders can take advantage of.

In connection with this, there is no policy intended for LGBTI+ elders in many countries of the world, nor in Turkey. Services for special needs are not provided by service providers and private initiatives of NGOs to ensure elderly people to access healthcare / housing/ care services are provided in a limited way.

*In the article called "Neo-liberal Politikalar LGBT Nüfusu Nasıl Yaşlandırır?" written by Berkant Çağlar (The influence of Neo-liberal Policies on LGBT Aging) published in 2014; it is stated:*

*"The fact that the basis of the LGBT movement in Turkey is shaping itself through identity politics suggests that the multiple discriminations are ignored. What needs to be done by LGBT organizations is to work to establish a culture of solidarity with transgender persons, lesbians, gays, bisexuals and intersex persons, who can potentially face numerous discrimination while accessing to healthcare services as they age. These organizations need to form their studies in the field of social policies and social services in a way that leaving*

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19 <https://www.milliyet.com.tr/siyaset/ak-parti-istanbul-sozlesmesi-yeniden-mercek-altina-ala-cak-6149634>  
<https://www.mihraphaber.com/haber/4318156/zinayi-mesrulastiran-istanbul-sozlesmesi-kaldirilsin>  
<https://www.yeniakit.com.tr/haber/es-Gay-sapkinlik-destekcileri-iyice-zivanadan-cikti-hukumete-istanbul-sozlesmesi-tehdidi-853521.html>



*the neo-liberal discourse aside. When we all talk about human rights and democracy, we often say that we struggle against the discrimination based on language, religion, race, gender, sexual orientation, gender identity and age. So when we think of the age discrimination here, do not you think how strange the children come to mind at first and perhaps solely for most of us? So why do not we, as the ones at the forefront of the Intersectionality discourse, question the specific problems and intersectional discriminations related to the old age, although we always emphasize the multiple discriminations can be suffered and even we provide the example of a trans woman discriminated on account of the ethnicity and disabilities? The reason is we always think that we are still young and well-heeled. We should not. The NGOs abroad has conducted such good studies and literature studies. Lets have advocacy for our own aging studies before it is too late, shall we, my love?"<sup>20</sup>*

## **II- Good Practices for the Benefit of LGBTI+ Elders**

The limited number of services has been implemented for special needs of LGBTI+ persons are carried out by local municipalities. Some free healthcare services offered by Şişli Municipality for LGBTI+ people are the only good examples in that regard.

*"In the polyclinic of Şişli Municipality located in the building of Health Affairs Directorate in Feriköy, medical counseling service for LGBTI+ people is provided by STI consultant for five days in a week between 17:00 and 20:00.*

*In the polyclinic, by using alias in the registration, free and anonymous tests are provided every three months for LGBTI+ persons regarding HIV, Hepatitis and similar sexually transmitted infections. In addition, consultancy services by the physician on other medical issues without need for the appointment are provided between the specified hours. It is not compulsory to speak Turkish in order to benefit from the service, an interpreter can be provided during the meeting with the doctor.*

*On Fridays, between 17:30 and 19:30, psychiatric and psychological counseling is provided to LGBTI+ persons in need by a Psychiatrist. It is not*

20 <https://www.kaosgl.org/gokkusagi-forumu-kose-yazisi/neo-liberal-politikalar-lgbt-nufusu-nasil-yaslandirir>



*necessary to take an appointment to benefit from the free service in the Health Affairs Directorate building.*

*In order to benefit from these services, it is not necessary to reside in Şişli and being the citizen of Turkey. Not only those living in Şişli, but also all LGBTI+ people can benefit from this service of Şişli Municipality.<sup>21</sup>*

There is no age limit for the service, therefore this service is the only private service as an LGBTI+ inclusive service in Turkey.

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21 <http://lgbtisagligi.org/index.php/basvuru-merkezleri/>

## INTERNATIONAL LEGISLATION AND PRACTICES ON THE RIGHTS OF THE ELDERLY

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First of all, it should be noted that there is no international regulation on protecting the rights of elderly LGBTI + persons yet. In order for LGBTI+ elders to enjoy their existing rights equally without discrimination on account of SOGI-ESC<sup>22</sup> and to cover their special needs, international and intergovernmental organizations such as United Nations (UN), European Union (EU) and the Council of Europe (CoE) and International Labor Organization (ILO) have introduced regulations and general recommendations in the field of aging and those are provided below. Even if there is no specific prohibition of discrimination has not been imposed on behalf of LGBTI+ elders, LGBTI + elders should also benefit from these international regulations within the scope of human rights without discrimination.

### UN Conventions on the Rights of the Elderly

*“In spite of the fact that there are various conventions adopted by UN on the survivors of discrimination, women, children and persons with disabilities from the groups that need special protection, there is no convention adopted yet on the rights of the elderly. The UN’s regulations on the elderly are generally made up of the provisions that are indirectly referred to in the regulations specific to the other groups. The mentioned regulations and studies regarding the dates of adoption are respectively as follows; United Nations Universal Declaration of Human Rights (1948), International Covenant on Economic, Social and Cultural Rights (1966), Declaration on Social Progress and Development (1969), World Assembly on Aging (1982), the United Nations Principles for Older Persons (1991), Copenhagen Declaration on Social Development (1995), International Year of Older Persons and International Plan of Action on Ageing (1999), United Nations Millennium Declaration (2000) and the UN Second World Assembly on Ageing (2002)”<sup>23</sup>.*

22 SOGIESC: Sexual orientation, gender identity/expression, sex characteristics/intersex status

23 <https://dergipark.org.tr/en/download/article-file/883174>

a- United Nations Principles for Older Persons Adopted by General Assembly resolution 46/91 of 16 December 1991 b- UN Committee on the Elimination of Discrimination Against Women (CEDAW); General recommendation No. 27 on older women and protection of their human rights, 16 December 2010, CEDAW/C/GC/27; General recommendations of The Committee on Economic, Social and Cultural Rights; of UN Human Rights Committee and of The Committee on the Rights of Persons with Disabilities. Due to the fact that those general recommendations are not recognized and widespread adequately in Turkey, We find it important to provide the former two herein in this report as the full text as possible; whereas the latter are provided in the most comprehensive way. Within the scope of this report, the recommendations reviewed on aging/elderly, which is taken into consideration as a derivative field in the field of human rights which should rather be restored to its rightful place in the supranational context, are as follows;

#### **a- United Nations Principles for Older Persons Adopted by General Assembly Resolution 46/91 of 16 December 1991**

The provisions stipulated by UN Principles for Older Persons are as follows;

(United Nations Principles for Older Persons; to add life to the years that have been added to life)

“The General Assembly ,

Appreciating the contribution that older persons make to their societies,

Recognizing that, in the Charter of the United Nations, the peoples of the United Nations declare, inter alia , their determination to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small and to promote social progress and better standards of life in larger freedom,

Noting the elaboration of those rights in the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights and other declarations to ensure the application of universal standards to particular groups,

In pursuance of the International Plan of Action on Ageing, adopted by the World Assembly on Ageing and endorsed by the General Assembly in its resolution 37/51 of 3 December 1982,



Appreciating the tremendous diversity in the situation of older persons, not only between countries but within countries and between individuals, which requires a variety of policy responses,

Aware that in all countries, individuals are reaching an advanced age in greater numbers and in better health than ever before,

Aware of the scientific research disproving many stereotypes about inevitable and irreversible declines with age,

Convinced that in a world characterized by an increasing number and proportion of older persons, opportunities must be provided for willing and capable older persons to participate in and contribute to the ongoing activities of society,

Mindful that the strains on family life in both developed and developing countries require support for those providing care to frail older persons,

Bearing in mind the standards already set by the International Plan of Action on Ageing and the conventions, recommendations and resolutions of the International Labour Organization, the World Health Organization and other United Nations entities,

Encourages Governments to incorporate the following principles into their national programmes whenever possible:

- **Independence**

Older persons should have access to adequate food, water, shelter, clothing and health care through the provision of income, family and community support and self-help.

Older persons should have the opportunity to work or to have access to other income-generating opportunities.

Older persons should be able to participate in determining when and at what pace withdrawal from the labour force takes place.

Older persons should have access to appropriate educational and training programmes.

Older persons should be able to live in environments that are safe and adaptable to personal preferences and changing capacities.

Older persons should be able to reside at home for as long as possible.



- **Participation**

Older persons should remain integrated in society, participate actively in the formulation and implementation of policies that directly affect their well-being and share their knowledge and skills with younger generations.

Older persons should be able to seek and develop opportunities for service to the community and to serve as volunteers in positions appropriate to their interests and capabilities.

Older persons should be able to form movements or associations of older persons.

- **Care**

Older persons should benefit from family and community care and protection in accordance with each society's system of cultural values.

Older persons should have access to health care to help them to maintain or regain the optimum level of physical, mental and emotional well-being and to prevent or delay the onset of illness.

Older persons should have access to social and legal services to enhance their autonomy, protection and care.

Older persons should be able to utilize appropriate levels of institutional care providing protection, rehabilitation and social and mental stimulation in a humane and secure environment.

Older persons should be able to enjoy human rights and fundamental freedoms when residing in any shelter, care or treatment facility, including full respect for their dignity, beliefs, needs and privacy and for the right to make decisions about their care and the quality of their lives.

- **Self-fulfillment**

Older persons should be able to pursue opportunities for the full development of their potential.

Older persons should have access to the educational, cultural, spiritual and recreational resources of society.



- **Dignity**

Older persons should be able to live in dignity and security and be free of exploitation and physical or mental abuse.

Older persons should be treated fairly regardless of age, gender, racial or ethnic background, disability or other status, and be valued independently of their economic contribution."<sup>24</sup>

For the implementation of these principles adopted by UN, UN Madrid International Plan of Action on Ageing is planned to be implemented.<sup>25</sup>

**b- UN Committee on the Elimination of Discrimination Against Women (CEDAW); General Recommendation No. 27 on Older Women and Protection of their Human Rights, 16 December 2010, CEDAW/C/GC/27**

The provisions below<sup>26</sup> are endorsed in the General Recommendation No.27 of the CEDAW Committee dated on 19.12.2010 on the Protection of the Human Rights of Older Women, in order to ensure the state parties to prevent all kinds of discrimination in order to ensure that elderly women participate in all areas of life such as economic, social, political, cultural and civil life.

1. The Committee on the Elimination of Discrimination against Women (hereinafter "the Committee"), concerned about the multiple forms of discrimination experienced by older women and that older women's rights are not systematically addressed in the reports of States parties, decided at its forty-second session, held from 20 October to 7 November 2008, pursuant to article 21 of the Convention on the Elimination of All Forms of Discrimination against Women (hereinafter "the Convention"), to adopt a general recommendation on older women and protection of their human rights.

24 <https://www.ohchr.org/Documents/ProfessionalInterest/olderpersons.pdf>

25 <https://www.ailevecalisma.gov.tr/uploads/eyhgm/uploads/pages/uluslararasi-mevzuat/bm-madrid-2002-yaslanma-uluslararasi-eylem-plani.pdf>

26 UN Committee on the Elimination of Discrimination Against Women (CEDAW), General recommendation No. 27 on older women and protection of their human rights, 16 December 2010, CEDAW/C/GC/27, available at: <https://www.refworld.org/docid/4ed3528b2.html> [accessed 2 October 2020]

2. In its decision 26/III of 5 July 2002, the Committee acknowledged that the Convention “is an important tool for addressing the specific issue of the human rights of older women.”<sup>1</sup> General recommendation No. 25 on article 4, paragraph 1, of the Convention (temporary special measures) also recognizes that age is one of the grounds on which women may suffer multiple forms of discrimination. In particular, the Committee recognized the need for statistical data, disaggregated by age and sex, in order to better assess the situation of older women.
3. The Committee affirms previous commitments to older women’s rights enshrined in, inter alia, the Vienna International Plan of Action on Ageing, the Beijing Declaration and Platform for Action, the United Nations Principles for Older Persons (General Assembly resolution 46/91, annex), the Programme of Action of the International Conference on Population and Development, the Madrid International Plan of Action on Ageing 2002, Committee on Economic, Social and Cultural Rights general comment No. 6 on the economic, social and cultural rights of older persons (1995), and general comment No. 19 on the right to social security (2008).

## **Background**

4. Current United Nations figures estimate that within 36 years there will be more people over the age of 60 than children under 15 years, globally. It is estimated that by 2050, the number of older people will be over 2 billion, or 22 per cent of the global population, an unprecedented doubling of the present 11 per cent of the population that is over 60. (See. Report of the World Assembly on Ageing, Vienna, 26 July-6 August 1982; Report of the Fourth World Conference on Women, Beijing, 4-15 September 1995; Report of the International Conference on Population and Development, Cairo, 5-13 September 1994; Report of the Second World Assembly on Ageing, Madrid, 8-12 April 2002)
5. The gendered nature of ageing reveals that women tend to live longer than men, and that more older women than men live alone. While there are 83 men for every 100 women over the age of 60, there are only 59 men for every 100 women over the age of 80. Further, statistics from the United Nations Department of Economic and Social Affairs indicate that 80 per cent of men over 60 are married compared with only 48 per cent of older women.



6. This unprecedented demographic ageing, due to improved living standards and basic health-care systems as well as declines in fertility and rising longevity, can be considered a successful outcome of development efforts and one that is set to continue, making the twenty-first century, the century of ageing. However, such demographic changes have profound human rights implications and increase the urgency of addressing the discrimination experienced by older women in a more comprehensive and systematic manner through the Convention.
7. The issue of ageing is shared by both developed and developing countries. The proportion of older persons in less developed countries is expected to increase from 8 per cent in 2010 to 20 per cent by 2050, while the proportion of children will decrease from 29 to 20 per cent. The number of older women living in less developed regions will increase by 600 million within the period 2010 to 2050. This demographic shift presents major challenges for developing countries. The ageing of society is a well-established trend and a significant feature in most developed countries.
8. Older women are not a homogeneous group. They have a great diversity of experience, knowledge, ability and skills, however, their economic and social situation is dependent on a range of demographic, political, environmental, cultural, social, individual and family factors. The contribution of older women in public and private life as leaders in their communities, entrepreneurs, caregivers, advisers, mediators, among other roles, is invaluable.

### **Purpose and objective**

9. This general recommendation on older women and promotion of their rights explores the relationship between the articles of the Convention and ageing. It identifies the multiple forms of discrimination that women face as they age, outlines the content of the obligations to be assumed by States parties with regard to ageing with dignity and older women's rights, and includes policy recommendations aimed at mainstreaming the responses to the concerns of older women into national strategies, development initiatives and positive action so that older women can fully participate in society without discrimination and on an equal basis with men.
10. The general recommendation also provides guidance to States parties on the inclusion of the situation of older women in their reports on the

implementation of the Convention. The elimination of all forms of discrimination against older women can only be achieved by fully respecting and protecting their dignity and their right to integrity and self-determination.

### **Specific areas of concern**

11. While both men and women experience discrimination as they become older, older women experience ageing differently. The impact of gender inequality throughout their lifespan is exacerbated in old age and is often based on deep-rooted cultural and social norms. The discrimination that older women experience is often a result of unfair resource allocation, maltreatment, neglect and limited access to basic services.
12. Concrete forms of discrimination against older women may differ considerably under various socio-economic circumstances and in various sociocultural environments, depending on the equality of opportunities and choices regarding education, employment, health, family and private life. In many countries, the lack of telecommunication skills, access to adequate housing, social services and the Internet, loneliness and isolation pose problems for older women. Older women living in rural areas or urban slums often suffer a severe lack of basic resources for subsistence, income security, access to health care, information on and enjoyment of their entitlements and rights.
13. The discrimination experienced by older women is often multidimensional, with the age factor compounding other forms of discrimination based on gender, ethnic origin, disability, poverty levels, sexual orientation and gender identity, migrant status, marital and family status, literacy and other grounds. Older women who are members of minority, ethnic or indigenous groups, internally displaced or stateless often experience a disproportionate degree of discrimination.
14. Many older women face neglect as they are no longer considered useful in their productive and reproductive roles, and are seen as a burden on their families. Widowhood and divorce further exacerbate discrimination, while lack of or limited access to health-care services for diseases and conditions, such as diabetes, cancer, hypertension, heart disease, cataract, osteoporosis and Alzheimer, prevent older women from enjoying their full human rights.



15. The full development and advancement of women can only be achieved through a life-cycle approach that recognizes and addresses the different stages of women's lives –from childhood through adolescence, adulthood and old age– and the impact of each stage on the enjoyment of human rights by older women. The rights enshrined in the Convention are applicable at all stages of a woman's life. However, in many countries, age discrimination is still tolerated and accepted at the individual, institutional and policy levels, and few countries have legislation prohibiting discrimination based on age.
16. Gender stereotyping, traditional and customary practices can have harmful impacts on all areas of the lives of older women, in particular those with disabilities, including family relationships, community roles, portrayal in the media, employers' attitudes, health care and other service providers, and can result in physical violence as well as psychological, verbal and financial abuse.
17. Older women are often discriminated against through restrictions that hamper their participation in political and decision-making processes. For example, lack of identification documents or transportation may prevent older women from voting. In some countries, older women are not allowed to form or participate in associations or other non- governmental groups to campaign for their rights. Further, the mandatory retirement age may be lower for women than for men, which may be discriminatory against women, including those who represent their Governments at the international level.
18. Older women with refugee status or who are stateless or asylum-seekers, as well as those who are migrant workers or internally displaced, often face discrimination, abuse and neglect. Older women affected by forced displacement or statelessness may suffer from post-traumatic stress syndrome, which may not be recognized or treated by health-care providers. Older refugee and internally displaced women are sometimes denied access to health care because they lack legal status or legal documents and/or are resettled far from health-care facilities. They may also experience cultural and language barriers in accessing services.
19. Employers often regard older women as non-profitable investments for education and vocational training. Older women also do not have equal

opportunities to learn modern information technology, nor the resources to obtain them. Many poor older women, especially those with disabilities and those living in rural areas, are denied the right to education and receive little or no formal or informal education. Illiteracy and innumeracy can severely restrict older women's full participation in public and political life, the economy, and access to a range of services, entitlements and recreational activities.

20. Women are fewer in the formal employment sector. Women also tend to be paid less than men for the same work or work of equal value. Moreover, gender-based discrimination in employment throughout their life has a cumulative impact in old age, forcing older women to face disproportionately lower incomes and pensions, or even no pension, compared with men. In general comment No. 19, the Committee on Economic, Social and Cultural Rights recognizes that non-contributory pensions will be required in most States since it is unlikely that everyone will be covered by contributory schemes (para. 4 (b)), while article 28, paragraph 2 (b) of the Convention on the Rights of Person with Disabilities provides for social protection for older women, particularly those with disabilities. Since the old-age pension payable is usually closely linked to earnings during active life, older women often end up with lower pensions compared with men. Furthermore, older women are particularly affected by discrimination on the basis of age and sex, which results in a different mandatory retirement age than that for men. Women should be subject to an optional retirement age so as to protect older women's right to continue working if they wish to and to accumulate pension benefits, where applicable, at par with men. It is a known fact that many older women care for, and are sometimes the sole caregivers of, dependent young children, spouses/partners or elderly parents or relatives. The financial and emotional cost of this unpaid care is rarely recognized.
21. Older women's right to self-determination and consent with regard to health care are not always respected. Social services, including long-term care, for older women might be disproportionately reduced when public expenditure is cut. Post-menopausal, post-reproductive and other age-related and gender-specific physical and mental health conditions and diseases tend to be overlooked by research, academic studies, public policy and service provision. Information on sexual health and HIV/AIDS



is rarely provided in a form that is acceptable, accessible and appropriate for older women. Many older women do not have private health insurance, or are excluded from State-funded schemes because they did not contribute to a scheme during their working life in the informal sector or providing unpaid care.

22. Older women may not be eligible to claim family benefits if they are not the parent or legal guardian of children in their care.
23. Microcredit and finance schemes usually have age restrictions or other criteria that prevent older women from accessing them. Many older women, particularly those who are confined to their homes, are unable to participate in cultural, recreational and community activities, which leaves them isolated and has a negative impact on their well-being. Often, not enough attention is given to the requirements for independent living, such as personal assistance, adequate housing, including accessible housing arrangements and mobility aids.
24. In many countries, the majority of older women live in rural areas where access to services is even more difficult due to their age and poverty levels. Many older women receive irregular, insufficient or no remittances from their migrant-worker children. Denial of their right to water, food and housing is part of the everyday life of many poor, rural older women. Older women may not be able to afford proper food due to a combination of factors such as the high price of food and the inadequacy of their income—due to discrimination with regard to employment—, social security and access to resources. Lack of access to transportation can prevent older women from accessing social services or participating in community and cultural activities. Such lack of access may be due to the fact that older women have low incomes and the inadequacy of public policy in providing affordable and accessible public transport to meet the needs of older women.
25. Climate change impacts differently on women, especially older women who, due to their physiological differences, physical ability, age and gender, as well as social norms and roles and an inequitable distribution of aid and resources relating to social hierarchies, are particularly disadvantaged in the face of natural disasters. Their limited access to resources and decision-making processes increases their vulnerability to climate change.



26. Under some statutory and customary laws, women do not have the right to inherit and administer marital property on the death of their spouse. Some legal systems justify this by providing widows with other means of economic security, such as support payments from the deceased's estate. However, in reality, such provisions are seldom enforced, and widows are often left destitute. Some laws particularly discriminate against older widows, and some widows are victims of "property grabbing."
27. Older women are particularly vulnerable to exploitation and abuse, including economic abuse, when their legal capacity is deferred to lawyers or family members, without their consent.
28. The Committee's general recommendation No. 21 (1994) states that "[p]olygamous marriage contravenes a woman's right to equality with men, and can have such serious emotional and financial consequences for her and her dependents that such marriages ought to be discouraged and prohibited" (para. 14). Nevertheless, polygamy is still practiced in many States parties, and many women are in polygamous unions. Older wives are often neglected in polygamous marriages once they are no longer considered to be reproductively or economically active.

## Recommendations

### General

29. State parties must recognize that older women are an important resource to society, and have the obligation to take all appropriate measures, including legislation, to eliminate discrimination against older women. States parties should adopt gender-sensitive and age-specific policies and measures, including temporary special measures, in line with article 4, paragraph 1 of the Convention and general recommendations No. 23 (1997) and No. 25 (2004) of the Committee, to ensure that older women participate fully and effectively in the political, social, economic, cultural and civil life, and any other field in their societies.
30. States parties have an obligation to ensure the full development and advancement of women throughout their life cycle in times of both peace and conflict, as well as in the event of any man-made and/or natural disaster. States parties should therefore ensure that all legal provisions, policies and interventions aimed at the full development and advancement of women do not discriminate against older women.



31. States parties' obligations should take into account the multidimensional nature of discrimination against women and ensure that the principle of gender equality applies throughout women's life cycle, in legislation and in the practical implementation thereof. In this regard, States parties are urged to repeal or amend existing laws, regulations and customs that discriminate against older women, and ensure that legislation proscribes discrimination on the grounds of age and sex.
32. In order to support legal reform and policy formulation, States parties are urged to collect, analyze and disseminate data disaggregated by age and sex, so as to have information on the situation of older women, including those living in rural areas, areas of conflict, belonging to minority groups, and with disabilities. Such data should especially focus, among other issues, on poverty, illiteracy, violence, unpaid work, including caregiving to those living with or affected by HIV/AIDS, migration, access to health care, housing, social and economic benefits and employment.
33. States parties should provide older women with information on their rights and how to access legal services. They should train the police, judiciary as well as legal aid and paralegal services on the rights of older women, and sensitize and train public authorities and institutions on age- and gender-related issues that affect older women. Information, legal services, effective remedies and reparation must be made equally available and accessible to older women with disabilities.
34. States parties should enable older women to seek redress for and resolve infringements of their rights, including the right to administer property, and ensure that older women are not deprived of their legal capacity on arbitrary or discriminatory grounds.
35. States parties should ensure that climate change and disaster risk-reduction measures are gender-responsive and sensitive to the needs and vulnerabilities of older women. States parties should also facilitate the participation of older women in decision-making for climate change mitigation and adaptation.

### **Stereotypes**

36. States parties have an obligation to eliminate negative stereotyping and modify social and cultural patterns of conduct that are prejudicial and

harmful to older women, so as to reduce the physical, sexual, psychological, verbal and economic abuse that older women, including those with disabilities, experience based on negative stereotyping and cultural practices.

### **Violence**

37. States parties have an obligation to draft legislation recognizing and prohibiting violence, including domestic, sexual violence and violence in institutional settings, against older women, including those with disabilities. States parties have an obligation to investigate, prosecute and punish all acts of violence against older women, including those committed as a result of traditional practices and beliefs.
38. State parties should pay special attention to the violence suffered by older women in times of armed conflict, the impact of armed conflicts on the lives of older women, and the contribution that older women can make to the peaceful settlement of conflicts and to reconstruction processes. States parties should give due consideration to the situation of older women when addressing sexual violence, forced displacement and the conditions of refugees during armed conflict. States parties should take into account relevant United Nations resolutions on women and peace and security when addressing such matters, including, in particular, Security Council resolutions 1325 (2000), 1820 (2008) and 1889 (2009).

### **Participation in public life**

39. States parties have an obligation to ensure that older women have the opportunity to participate in public and political life, and hold public office at all levels and that older women have the necessary documentation to register to vote and run as candidates for election.

### **Education**

40. States parties have an obligation to ensure equal opportunity in the field of education for women of all ages, and to ensure that older women have access to adult education and lifelong learning opportunities as well as to the educational information they need for their well-being and that of their families.



## Work and pension benefits

41. States parties have an obligation to facilitate the participation of older women in paid work without discrimination based on their age and gender. States parties should ensure that special attention is paid to addressing problems that older women might face in their working life, and that they are not forced into early retirement or similar situations. States parties should also monitor the impact of gender-related pay gaps on older women.
42. States parties have an obligation to ensure that the retirement age in both the public and private sectors do not discriminate against women. Consequently, States parties have an obligation to ensure that pension policies are not discriminatory in any manner, even when women opt to retire early, and that all older women who have been active have access to adequate pensions. States parties should adopt all appropriate measures, including, where necessary, temporary special measures, to guarantee such pensions.
43. States parties should ensure that older women, including those who have the responsibility for the care of children, have access to appropriate social and economic benefits, such as childcare benefits, as well as access to all necessary support when caring for elderly parents or relatives.
44. States parties should provide adequate non-contributory pensions, on an equal basis with men, to all women who have no other pension or insufficient income security, and State-funded allowances should be made available and accessible to older women, particularly those living in remote or rural areas.

## Health

45. States parties should adopt a comprehensive health-care policy aimed at protecting the health needs of older women in line with the Committee's general recommendation No. 24 (1999) on women and health. Such policy should ensure affordable and accessible health care to all older women through, where appropriate, the elimination of user fees, training of health workers in geriatric illnesses, provision of medicine to treat age-related chronic and non-communicable diseases, long-term health and social care, including care that allows for independent living

and palliative care. Long-term care provisions should include interventions promoting behavioral and lifestyle changes to delay the onset of health problems, such as healthy nutritional practices and an active lifestyle, and affordable access to health-care services, including screening for and treatment of diseases, in particular those most prevalent among older women. Health policies must also ensure that health care provided to older women, including those with disabilities, is based on the free and informed consent of the person concerned.

46. States parties should adopt special programmes tailored to the physical, mental, emotional and health needs of older women, with special focus on women belonging to minorities and women with disabilities, as well as women tasked with caring for grandchildren and other young family dependents due to the migration of young adults, and women caring for family members living with or affected by HIV/AIDS.

### **Economic empowerment**

47. States parties have an obligation to eliminate discrimination in all its forms against older women in economic and social life. All barriers based on age and gender to accessing agricultural credit and loans should be removed and access to appropriate technology for older women farmers and small landholders should be ensured. States parties should provide special support systems and collateral-free microcredit, as well as encourage micro- entrepreneurship for older women. Recreational facilities for older women should be created and outreach services should be provided to older women who are confined to their homes. States parties should provide affordable and appropriate transportation to enable older women, including those living in rural areas, to participate in economic and social life, including community activities.

### **Social benefits**

48. States Parties should take necessary measures to ensure older women have access to adequate housing that meet their specific needs, and all barriers, architectural and other, that hinder the mobility of older persons and lead to forced confinement should be removed. States parties should provide social services that enable older women to remain in their homes and live independently for as long as possible. Laws and practices that negatively affect older women's right to housing, land and proper-



ty should be abolished. States parties should also protect older women against forced evictions and homelessness.

### **Rural and other vulnerable older women**

49. States parties should ensure that older women are included and represented in rural and urban development planning processes. States parties should ensure the provision of affordable water, electricity and other utilities to older women. Policies aimed at increasing access to safe water and adequate sanitation should ensure that the related technologies are accessible and do not require undue physical strength.
50. States parties should adopt appropriate gender- and age-sensitive laws and policies to ensure the protection of older women with refugee status or who are stateless, as well as those who are internally displaced or are migrant workers.

### **Marriage and family life**

51. States parties have an obligation to repeal all legislation that discriminates against older women in the area of marriage and in the event of its dissolution, including with regard to property and inheritance.
52. States parties must repeal all legislation that discriminates against older widows in respect of property and inheritance, and protect them from land grabbing. They must adopt laws of intestate succession that comply with their obligations under the Convention. Furthermore, they should take measures to end practices that force older women to marry against their will, and ensure that succession is not conditional on forced marriage to a deceased husband's sibling or any other person.
53. States parties should discourage and prohibit polygamous unions, in accordance with general recommendation No. 21, and ensure that upon the death of a polygamous husband, his estate is shared equally among his wives and their respective children.<sup>27</sup>

In summary, in the recommendations, the necessary measures should be taken to prevent negative stereotyping and violence against elderly women, includ-

27 [https://www.tbmm.gov.tr/komisyon/kefe/belge/uluslararasi\\_belgeler/ayrimcilik/CEDAW/tavsiye\\_kararlari/CEDAW%20Komitesi%20Tavsiye%20Kararlar%C4%B1\\_\(1-29\).pdf](https://www.tbmm.gov.tr/komisyon/kefe/belge/uluslararasi_belgeler/ayrimcilik/CEDAW/tavsiye_kararlari/CEDAW%20Komitesi%20Tavsiye%20Kararlar%C4%B1_(1-29).pdf)

ing the ones with disabilities and it is advised that the states shall take all necessary measures and make arrangements in order to ensure the participation of women in social life and equal participation in education and employment, to ensure them not to be discriminated on account of age of retirement, not to be forced into early retirement, not to be discriminated in access to health and in the enjoyment of their social rights, to ensure their economic empowerment, the consideration of the situation of elderly women living in rural areas, refugees or asylum seekers, or any other vulnerable group of women, in line with their special needs, including access to potable water, to ensure the protection of property and inheritance rights in marriage and family life. prevention of widow elders from being forced into marriage and polygamy with anyone, including relatives of their ex-husbands, to ensure upon the death of a polygamous husband, his estate is shared equally among his wives and their respective children .<sup>28</sup>

### **c- General Recommendations of The Committee on Economic, Social and Cultural Rights**

As aforementioned before, there is no international convention or recommendation by UN and UN bodies on regulating the rights of LGBTI+ elderly people. With the recommendations of the UN Committee on Economic, Social and Cultural Rights (CESCR) stated below, regulations regarding the rights of elderly people have been made. These recommendations do not contain specific arrangements for the needs of special groups such as LGBTI+ persons. However, we think that these recommendations provided within the framework of human rights should be implemented by taking into account the special needs of elderly LGBTI + persons without discrimination.

CESCR General Comment No. 6: The Economic, Social and Cultural Rights of Older Persons Adopted at the Thirteenth Session of the Committee on Economic, Social and Cultural Rights, on 8 December 1995<sup>29</sup>, CESCR General Comment No. 14: The Right to the Highest Attainable Standard of Health (Art. 12), Adopted at the Twenty-second Session of the Committee on Economic, Social and Cultural Rights, on 11 August 2000<sup>30</sup>, UN Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 19: The right

28 <https://www.refworld.org/docid/4ed3528b2.html>

29 <https://www.refworld.org/pdfid/4538838f11.pdf>

30 <https://www.refworld.org/pdfid/4538838d0.pdf>



to social security (Art. 9 of the Covenant), 4 February 2008<sup>31</sup>, UN Committee on Economic, Social and Cultural Rights (CESCR), General comment No. 20: Non-discrimination in economic, social and cultural rights (art. 2, para. 2, of the International Covenant on Economic, Social and Cultural Rights), 2 July 2009<sup>32</sup> and UN Committee on Economic, Social and Cultural Rights (CESCR), General comment no. 21, Right of everyone to take part in cultural life (art. 15, para. 1 a of the Covenant on Economic, Social and Cultural Rights), 21 December 2009<sup>33</sup>, oblige state parties to take necessary steps and measures in order to meet the special needs and ensure non-discrimination on account of situations below that the elder persons may encounter in summary and in general;

- Loneliness
- Isolation
- Lack of internet skills,
- Perception by the general public as useless and homogenization
- Illnesses and chronic diseases,
- Multiple discrimination,
- Economic weakness,
- Psychological, economic and verbal abuse,
- Prevention, discouragement and lack of harmonization regarding participation processes
- Interruption of education/training support (vocational, non-formal, life-long, etc.),
- Low salary, low pension payment,
- Failure to provide or to ensure home care,
- Not being able to benefit from loans equally,

31 <https://www.refworld.org/docid/47b17b5b39c.html>

32 <https://www.refworld.org/docid/4a60961f2.html>

33 <https://www.refworld.org/docid/4ed35bae2.html>



- Lack of peer support and solidarity and other protection mechanisms in rural and suburb areas,
- Right of inheritance,
- Public transportation
- Crisis and disaster emergencies,
- Access to justice and compensation for damages

In addition, regarding the elderly, regarding;

- Independence
- Right to live up to the potential in life
- Right of access/participation
- Right to care;
- Right to dignity
- Meeting the needs regarding private and complementary health insurances,
- Protecting the family and realizing social protection programs against poverty,
- Community support,
- Social inclusion and the construction of nursing homes and residences integrated into the rest of the city,
- Health programs for healthy aging,

Strategy recommendations were made in the form of public policies such as identifying the needs and problems, conducting academic and statistical research on aging,

#### **d- General recommendations of UN Human Rights Committee and of The Committee on the Rights of Persons with Disabilities**

Although age discrimination is not specified as a type of discrimination in the Human Rights Committee's ICCPR- UN International Covenant on Civil and



Political Rights- General Comment No. 18: Non-discrimination, Adopted at the Thirty-seventh Session of the Human Rights Committee, on 10 November 1989; we recommend that this recommendation, which regulates the scope of the prohibition of discrimination in general, should have a guiding nature in terms of the criteria to be used in preventing age discrimination.<sup>34</sup>

Despite the fact that Committee on the Rights of Persons with Disabilities General Comment No 1. Article 12: Equal recognition before the law (Adopted on 11 April 2014) contains specific regulations regarding the rights of the persons with disabilities, it is important that the criteria for independence and inclusion in the community, privacy and political representation, which are also adopted under the UN Principles for Older Persons, we recommend that the criteria for the development of rights of elderly people and LGBTI+ persons in general shall be adopted.<sup>35</sup>

Although Committee on the Rights of Persons with Disabilities General Comment No 2. Article 9: Accessibility contains special similar regulations for the rights of the persons with disabilities, we recommend that the same criteria shall be adopted in regulations and policies regarding elderly LGBTI+ for the development of rights of elderly people and LGBTI+ persons in general, who are deprived of their full and equal right to access social life in daily life<sup>36</sup>.

## Council of Europe Regulations on the Rights of the Elderly

**“European Convention on Human Rights** formerly know as The Convention for the Protection of Human Rights and Fundamental Freedoms;, guarantees the standard personal and political rights. There are no direct regulations for the protection of the elderly in the European Convention on Human Rights. However, the elderly can benefit from some general regulations. As a matter of fact, although there is no prohibition of discrimination on account of age in the European Convention on Human Rights, since the prohibition of discrimination in Article 14 also includes age discrimination, the elderly can also benefit from the mentioned reg-

34 <https://www.refworld.org/docid/453883fa8.html>

35 <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G14/031/20/PDF/G1403120.pdf?OpenElement>

36 <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G14/033/13/PDF/G1403313.pdf?OpenElement>

ulation.<sup>37</sup> . As a matter of fact, the European Court of Human Rights has taken many decisions that provide sanction in case of discrimination related to the violation of the prohibition of discrimination on account of age regulated in Article 14.”<sup>38</sup>.

**“European Social Charter** referring to the rights of the elderly guarantees the economic and social rights. The right to protection of health, the right to social security, the right to social and medical assistance, and the right to benefit from social welfare services are among the rights guaranteed within the scope of economic and social rights. The European Social Charter, which is a complementary document to the European Convention on Human Rights in the field of protection of social and economic rights, guarantees a series of rights that can be divided into two basic categories as “conditions of employment”; and “social cohesion”. Undoubtedly, the right to protection of health, the right to social security, the right to social and medical assistance and the right to benefit from social welfare services are among the fundamental rights that include right to access to care services. The European Social Charter was revised in 1996 and developed in a way that guarantees a new set of rights. Article 23 of the revised Charter imposes an obligation on the Parties to undertake to adopt or encourage, either directly or in co-operation with public or private organizations, appropriate measures designed in particular, in order to ensure that the effective exercise of the right of elderly persons to social protection. According to this article, the measures shall be taken to enable elderly persons to remain full members of society for as long as possible, by means of adequate resources enabling them to lead a decent life and play an active part in public, social and cultural life; to provide information about services and facilities available for elderly persons and their opportunities to make use of them; to enable elderly persons to choose their life-style freely and to lead independent lives in their familiar surroundings for as long as they wish and are able, by means of provision of housing suited to their needs and their state of health or of adequate support for adapting their housing and the health care and the services necessitated by their state; to guarantee elderly persons living in institutions appropriate support, while respecting their privacy, and participation in decisions concerning living conditions in the institution”<sup>39</sup>.

37 <https://dergipark.org.tr/en/download/article-file/883174>

38 [https://www.echr.coe.int/Documents/FS\\_Elderly\\_TUR.pdf](https://www.echr.coe.int/Documents/FS_Elderly_TUR.pdf)

39 <https://dergipark.org.tr/en/download/article-file/883174>



In Council of Europe, Recommendation CM/Rec(2014)2 of the Committee of Ministers to member States on the promotion of human rights of older persons; there are a few references to sexual orientation in the recommendation as arising form of multiple discrimination against an older person<sup>40</sup>. Article 11 states that older persons have the right to dignity and respect for their private and family life, including respect for their sexual intimacy, to the fullest extent and article 32 states that Care providers should treat any sensitive personal data of older persons confidentially and carefully in accordance with their right to privacy.

This recommendation is significant in defining multiple discrimination and contributing to the production of solutions by describing the problems experienced by elderly LGBTI+ persons. Although the emphasis on sexual orientation is included in the explanatory section with a limited and comprehensive comment; the inclusion of “discrimination based on sexual orientation” in a recommendation regarding elderly rights is so important in combating discrimination against elderly gays and bisexuals. However, this recommendation maintains elderly transgender and intersex persons’ invisibility by excluding gender identity, gender expression, and sex characteristics.

## European Union Regulations on the Rights of the Elderly

*Until 1997, while there was a prohibition of discrimination on the basis of gender and citizenship in European Union (EU) law, in 1997, new grounds of discrimination were added to the Amsterdam Treaty and the EC Treaty establishing the European Community with Article 13. With Article 13, the Council of the European Union has been empowered to take measures to combat discrimination on the specified grounds. Article 13 of EC Treaty establishing the European Community, which is legally binding for EU member states, prohibits discrimination on certain grounds and the Article enables the Council to take appropriate action to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation by unanimously on a proposal from the Commission after consulting the European Parliament. Article 11-85 of the EU Constitution states that The Union recognizes and respects the rights of the elderly to lead a life of dignity and independence and to participate in*

<sup>40</sup> <https://ilga-europe.org/resources/thematic-resources/multiple-discrimination/age-and-lgbti/council-europe-recommendation>

*social and cultural life.. Although its legally binding status is controversial, in the first regulation that can be specified within the scope of the prohibition of discrimination in terms of the EU, i.e. Article 21 of the Charter of Fundamental Rights of the EU, which was adopted in 2000, prohibits discrimination based on age, and in the Article 25, it is stated that The Union recognizes and respects the rights of the elderly to lead a life of dignity and independence and to participate in social and cultural life.. In the European framework, the relationship between welfare states and the elderly is regulated within the framework of social rights. Therefore, the relationship between the state and the elderly is based on four fundamental rights: the right to social security, the right to social and medical assistance, the right to benefit from social welfare services, the rights of elderly to be independent in society, social integration and participation”<sup>41</sup>.*

As it can be observed that the EU law regulates that necessary measures will be taken regarding discrimination based on age and sexual orientation, but there is no special regulation regarding elderly LGBTI+ yet. However, in EU law gender identity, gender expression and sex characteristics are not included with regard to old age, and so there is still a gap with regards to the multiple discrimination.

## **International Labor Organization Regulations on the Rights of the Elderly**

*The International Labor Organization (ILO) is an organization that was created as a part of the Treaty of Versailles in 1919 to play in building up a stable international system of social justice by pointing to the growing challenges ahead after the First World War and to ensure the implementation of reforms at the international level by conducting activities for regulating labor life. Among the activities of the ILO, there are conventions and recommendations that contain regulations for the protection of the persons with disabilities and the elderly, as well as other vulnerable groups in working life suggests an important International Principles and Standards on Rights of the Elderly and Social Work Practices. The first of these regulations is the C035 - Old-Age Insurance (Industry, etc.) Convention, 1933 (No. 35) and C036 - Old-Age Insurance (Agriculture) Convention, 1933 (No. 36), which guarantee individuals against the risk*

41 <https://dergipark.org.tr/en/download/article-file/883174>



of aging, as a social risk that causes the individuals to leave working life, then causes the individuals to lose income and shakes the economy of the individuals.. Another ILO Convention, which includes provisions to protect the elderly themselves and the rights holders against the similar risks of aging is C128 - Invalidity, Old-Age and Survivors' Benefits Convention, 1967 (No. 128).

In that regard, another ILO's regulation, which considers old age, illness, motherhood, invalidity and death as one of the five basic physiological risks that must be secured, is the C102 - Social Security (Minimum Standards) Convention, 1952 (No. 102). The ILO also has regulations to protect the elderly against discrimination in working life. In this context, the first striking regulation is the C111 - Discrimination (Employment and Occupation) Convention, 1958 (No. 111). Although age is not mentioned among the areas where discrimination is prohibited in the convention, in accordance with the article 1/1-b, some countries have included age under the principle of non-discrimination. In addition, Article 5 of the same aforementioned convention states that it is possible to determine that other special measures designed to meet the particular age-related requirements of employees. As a matter of fact, in the R162 - Older Workers Recommendation, 1980 (No. 162)<sup>42</sup>, It is stated that employment problems of older workers should be dealt with in the context of an over-all and well balanced strategy for full employment and, at the level of the undertaking, of an over-all and well balanced social policy, due attention being given to all population groups, thereby ensuring that employment problems are not shifted from one group to another<sup>43</sup>.

From those conventions, Turkey is the state party to C102 - Social Security (Minimum Standards) Convention, 1952 and C111 - Discrimination (Employment and Occupation) Convention, 1958 (No. 111) and the provisions of mentioned conventions are legally binding with regards to Turkey's legal framework.

42 [https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100\\_ILO\\_CODE:R162](https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:R162)

43 <https://dergipark.org.tr/en/download/article-file/883174>

## INTERNATIONAL BEST PRACTICES ON THE RIGHTS OF THE ELDERLY

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There are no special regulations or practice regarding elderly LGBTI+ persons in Turkey nor in the world; the human rights of elderly LGBT+ in many parts of the world is not yet fully implemented. However, there are good practices being developed by various governments and non-governmental organizations and the private sector.

In the article published in the issue of Kaos GL Magazine on Aging, where Damla Umut Uzun has provided the best examples for elderly LGBTI+ persons from the world.<sup>44</sup> These examples are below;

“In countries such as Canada, Australia, USA and UK, there are many nursing homes, social service centers and the initiatives/programs of NGOs that take into account the special needs of elderly LGBTI + people, organize their institutional structure accordingly, meet their basic needs while meeting the socialization needs of the elderly without leaving them more isolated. How is it possible to provide Elderly LGBTI+ Inclusive Services? As LGBTI+ persons getting older, how should a life be established in which they are not subjected to extra discrimination and exclusion by institutions and individuals within the cis-heterosexist system, while they experience concerns such as health, financial and moral security? The primary priorities of ensuring this are to organize and initiate specific programs in such a way that elderly LGBTI+ people can access social services such as health, housing, transportation and care services without any discrimination. For this, the first thing that needs to be done is to adopt a LGBTI+ inclusive strategy by transforming the cis-heterosexist structure of the institutional structures that provide these services.”

After describing how to determine an inclusive approach for elderly LGBTI+ people in the introduction part of the article, the example of Australia was mentioned. There are 5 principles that can be applied for an inclusive strategy

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44 Damla Umut Uzun, Yaşlı LGBTİ'leri Kapsayıcı Bir Hizmet Nasıl Olmalı?, Kaos GL Magazine, Issue: 160, May /June 2018, pp. 34-37



according to the Best practice guidelines/Accommodating older gay, lesbian, bisexual, trans and intersex (GLBTI) people of GRAI Organization, which works to improve the quality of life of LGBTI + elders in Australia. These principles are important in that they clearly describe the problems experienced by elderly LGBTI+ people and provide solutions to these problems. These principles are listed in the article as follows:

“Principle 1- Inclusive and safe environment: Provide an inclusive environment, where LGBTI+ people feel physically, spiritually and emotionally safe. An inclusive and safe environment reflects a commitment to the physical, spiritual and emotional wellbeing of LGBTI people by safeguarding them from discrimination and prejudice. For example, in an ideal nursing home in Australia, rainbow flags, magazines and books on LGBTI+ issues are provided in common areas for elderly LGBTI+ people to feel at home. Training activities are organized for the employees of the institution and other elderly people, from LGBTI+ basic concepts, to transition period and coming out later in life and HIV awareness. In fact, they are assisted if they want to participate in the LGBTI+ Pride.

“2. Principle 2- Inclusive communication: Another important way for elderly LGBTI+ persons to feel comfortable and safe is to use the environment in accordance with their needs. For example, again in Australia in nursing homes, it is expected from those centers to use appropriate language that is respectful and aligned with how a person identifies themselves by respecting their privacy, to use a gender-neutral and non-discriminatory language respecting alternative families of choice and long-standing relationship status, to ensure all staff are equipped with the skills and knowledge required to provide rehab/psychological support when needed.

“3. Principle 3- LGBTI-sensitive practices: This process is for providing best practice through knowledge and understanding of the impact of an elder LGBTI+ persons’ past experiences, culture practices, beliefs and expectations in order to the delivery of LGBTI+-sensitive practices. For example, when seniors apply to the institution, the inclusive language to be used in the application / evaluation / need assessment forms, the options that include the person’s chosen family or partner, and ensuring the confidentiality of their information is the first step of these practices. Later, in the light of this information and evaluations, necessary organizations and LGBTI+ organizations can be contacted for cooperation and a peer support mechanism can be established within the institution by introducing elderly LGBTI + people to each other in line with their requests.





"4. Principle 4-Staff education and training: It is among the principles that all staff in the institution, including the nurses responsible for the care of the elderly, social service specialists who provide the necessary consultancy, psychologists, healthcare workers, transportation staff and administrative staff, to have sufficient knowledge and skills to work with LGBTI+ persons. As stated before, use of appropriate language, being informed about LGBTI + culture and history, keeping this information confidential when necessary, communicating appropriately with elderly LGBTI+ persons and their families / friends, having the necessary information about the special health conditions of intersex and trans people and employing LGBTI+ staff are among the best examples of this requirement.

"5. LGBTI+ inclusive institutional policies and procedures : To transform LGBTI+ inclusive regulations and practices into a policy and strategy within the institution. For example; to include experts from LGBTI + organizations in the board and advisory boards of the institution; creating guides and brochures for the staff and other residents of the institution and making them available to everyone at all times; periodic inclusion training in case of staff change; Establishing the necessary procedures for employees in this regard and keeping the complaint mechanisms / satisfaction forms to be consulted when necessary within the organization."

As it can be seen, the approach used in services provided to elderly LGBTI+ people in Australia, which provided above as good example, has been formed by the implementation of the criteria such as privacy, independence, self-existence, full and equal inclusion in the community, which are suggested in the UN Principles on Older Persons and Recommendations on the prevention of discrimination.

Within the same article, the researches of York, McGill and UQAM Universities in Canada are also mentioned. While these surveys indicate that the majority of nursing homes do not have special arrangements and inclusive activities; special social activities for LGBTI+ people are among the practices that can be considered as good examples. Such good practices gain importance in dealing with the psychological effects of discrimination, which is a reality for LGBTI+ persons throughout their life, and to eliminate loneliness, which has a risk of increase be old age. *Alice's Garage Celebrate Aging* program launched in 2016 in Canada to celebrate aging and build respect for the elderly can also be included among these good practices. Within the scope of the program, there are also projects aiming to empower elderly LGBTI + peo-



ple. The project, which provides artistic activities that enable elderly LGBTI + people to express their own stories, appears as an important practice against the destructive effects of loneliness/isolation and lifelong discrimination.

These studies, which we have included in the example of Canada, seem to pay attention to the implementation of criteria such as living an independent life, self-existence, full and equal inclusion in the community.

In the article, examples from the USA are given as follows;

*“SAGE is the oldest non-governmental organization in the USA, founded in 1978, specializing in elderly LGBTI+ people. In order to increase the quality of life of elderly LGBTI + people, it provides supportive services to the elderly and to persons who provide care services, especially in terms of meeting their housing and healthcare needs; organizes advocacy activities to develop social policies across the country on this issue; It provides training and technical support to service providers with its extensive literature center on the aging of LGBTI+ people; Thanks to the SAGECare center, it provides cultural competence trainings and acting as an umbrella organization, it organizes capacity building trainings for other organizations working in the same field. In addition to these, while improving the oral history skills of elderly LGBTI + people with the SAGEStory program, they make them empowered socially, while also making the society contemplate on by sharing these experiences.*

*The LGBT Aging Issues Network (LAIN) is a network created by the American Society on Aging (ASA), which was established in 1954 to increase the quality of life of the elderly, and aims to raise awareness in this field. LAIN mainly focuses on institutional and interpersonal professional development and dialogue through publications, conferences and research so that elderly LGBTI+ can access housing, healthcare, long-term care and other services. With its extensive literature on old age of LGBTI+ people, seminars, webinars and many other educational activities they organized by including nursing homes and government institutions in those and in that regard LAIN can be considered as one of the best examples in the field of advocacy.*

*Another initiative is Age is Not a Condom. This creative-name of initiative supported by a social media campaign and accompanying events launched in the USA in 2014 by the ACRIA organization, which conducts research on HIV+ and AIDS. The campaign aims to create a perception in the society that sex is a way of aging better against the myths that the*

*elderly do not have an active sexual life in general, and to raise awareness of all elderly people against sexually transmitted diseases, regardless of sexual orientation and gender identity. Everyone is encouraged to be tested on the National HIV Test Day, which is part of the campaign. Being Sexy After 50 campaign aims to draw attention to these issues with various posters on social media, with questioning the perception of sexy created by the society, the acquired knowledge in that regard and active sexual life after the age of 50". The Australian government has pioneering practices in introducing special protection and regulation for elderly LGBTI + people, such as preparing specific guidelines for care providers.<sup>45</sup>*

If we need to look at other examples in the world that provide special services or organize cultural events that include elderly LGBTI+ people;; National LGBTI Health Alliance<sup>46</sup> in Australia, HAAG, providing support for elderly LGBTI+ people on housing services<sup>47</sup> , Australian Association of Gerontology<sup>48</sup> and All the Queens Men LGBTI+ Seniors Dance Club<sup>49</sup>, LGBTI + Seniors Social Dance Club at the National Theater of Scotland in Scotland<sup>50</sup>, Diverse Elders Coalition (DAC), which also includes the above-mentioned SAGE organization and produces policies and programs related to the aging status of communities in the USA due to their race, ethnicity and SOGIESC.<sup>51</sup> can be mentioned among good examples.

45 <https://www.health.gov.au/resources/publications/actions-to-support-lgbti-elders-a-guide-for-consumers>  
<https://www.health.gov.au/resources/publications/actions-to-support-lgbti-elders-a-guide-for-aged-care-providers>  
<https://www.myagedcare.gov.au/support-lesbian-gay-bisexual-transgender-and-intersex-people>

46 [https://www.lgbtihealth.org.au/services\\_and\\_supports](https://www.lgbtihealth.org.au/services_and_supports)

47 <https://www.oldertenants.org.au/lgbti-elder-housing>

48 <https://www.aag.asn.au/documents/item/2253>

49 <https://allthequeensmen.net/projects/lgbti-elders-dance-club/>

50 <https://www.nationaltheatrescotland.com/events/the-lgbti-elders-social-dance-club>

51 <https://www.diverseelders.org/who-we-are/the-coalition/who-we-are-2/>

## ACADEMIC STUDIES ON THE RIGHTS OF THE ELDERLY

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When we review the academic studies, research studies and published articles on general rights of the elderly in Turkey, in particular on the rights of elderly LGBTI+; we could reach limited number of articles on LGBTI+ persons, as well as the academic studies on the elderly in general are not comprehensive and numerous. Academic studies on elderly LGBTI + people and aging in general that can contribute to policies and strategies for elderly LGBTI + are given below;

*“National data collection or research studies involving LGBTI+ people are not yet available in Turkey. The absence of national research and data does not indicate the absence of LGBT persons, rather it indicates that they are ignored. In USA, 2.7 million adults aged 50 years and over and 1.1 million adults aged 65 years and over identify themselves as lesbian, gay, bisexual, or transgender. It is estimated that the number of LGBT older adults will exceed 5 million by 2060 (Fredriksen-Goldsen, 2017; Fredriksen-Goldsen & Kim, 2016). According to the estimates of SAGE (Advocacy & Services for LGBT Elders), there will be 7 million LGBT persons aged 65 years and over in the USA in 2030 (SAGE, 2016). When we look at the statistics in Chicago, it is seen that there are 40,000 LGBT persons over the age of 55 (Heartland Alliance, 2005).*

*What Does the Gerontology Literature Say? What distinguishes older LGBT people from cis-heterosexual individuals? Why do we want to work with older LGBT individuals? LGBT elders also have to deal with loneliness, ageism, financial difficulties and health problems that all elderly people are exposed to. However, these difficulties are further stratified based on the gender identity / sexual orientation of LGBTI+ elders, and social exclusion, economic barriers, barriers to access to services and healthcare become deeper (Heartland Alliance, 2005). LGBT seniors have their own unique needs and face unique challenges. The perceived lack of resources and understanding among sen-*

ior care providers can be very frustrating for LGBT seniors. Often they have to hide who they are, and this often leads to a decrease in their quality of life (Northwest LGBT Senior Care Providers Network, 2017). In contrast to 519 non-LGBT elderly individuals, 1857 LGBT elderly individuals participated in the “Experiences and Attitudes of LGBT Older Adults, Ages 45-75” by SAGE<sup>52</sup>. According to the findings of the research:

- About one in three (34%) LGBT older people lives alone, as compared to 21% of non-LGBT people
- One in three (32%) LGBT older people is very or extremely concerned about “being lonely and growing old alone,” as compared to 19% of non-LGBT people
- Forty-two percent of LGBT older people are very or extremely concerned that they will outlive the money they have saved for retirement, as compared to 25% of non-LGBT people
- 40% of LGBT older people in their 60s and 70s say their healthcare providers don’t know their sexual orientations
- 40% of LGBT older people say that their support networks have become smaller over time, as compared to 27% of non-LGBT older people (SAGE, 2014).

Aging with Pride: National Health, Aging, and Sexuality/Gender Study is the first federally funded study addressing aging among LGBTQ older adults throughout USA, in order to understand both the challenges as well as the resilience and resources of LGBTI+ older adults and their families and communities. It has reached 2560 people aged between 50 and 100. According to the results of the project, Fundamental Inequalities among LGBT Older Adults are listed as follows.

- Higher risk of social isolation compared to heterosexuals
- Income is not proportional to education
- More lifetime discrimination and victimization

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52 <https://www.sageusa.org/wp-content/uploads/2018/05/sageusa-out-visible-lgbt-market-research-short-executive-summary.pdf>



- Lesbian and bisexual women: High risk of disability, cardiovascular disease, being overweight, poor overall health
- Gay and bisexual men: Twice the risk of living alone, higher risk of cancer, HIV
- Older transgender adults: Higher rates of discrimination, risk of victimization, mental illness, poor health, less support
- Older bisexual adults: Higher stigma, less likely to express their identity, less income, risk of less support
- Older, low-income and low-educated persons: High risk of inequality in healthcare, limited access to healthcare and support services (Fredriksen-Goldsen et al, 2011; Fredriksen-Goldsen, 2016; Fredriksen-Goldsen & Kim, 2017).

In terms of social isolation, transgender adults (62.5%), bisexual men (66.2%), gay men (53.9%), bisexual women (55.3%) and lesbians (48.7%) experience social isolation (Fredriksen- Goldsen, 2016). Following reviewing the studies, we can list the problems LGBT individuals face in their old age as social isolation, barriers they face in accessing healthcare and care services, low income and loneliness. All these problems cause a decrease in the quality of life of individuals.

Why do we need in Turkey? LGBTI+ persons in Turkey are exposed to chains of the human rights violations based on sexual orientation or gender identity due to sexist, patriarchal and capitalist system. According to ILGA Europe's report on the study conducted on the legal-political situation, Turkey is the third last country to probe the human rights of LGBT individuals in comparison to other countries with the rate of 9% (ILGA, 2016). Individuals try to hide themselves in order not to experience social stigma. For this reason, we do not have enough information about exactly what elderly LGBT individuals do and how their situation is. For this reason, we must work in this area to identify existing situations and to suggest solutions to problems. in Turkey in LGBT studies it is usually focused on young people. Studies on aging have been started recently.

According to the findings of research conducted by SPoD (Social Policy on Gender Identity and Sexual Orientation Association) with 2875 participants,

"62% of respondents stated that they do not feel confident about their future and old age; "51.8% of respondents stated that that they think they will not receive adequate support when they need care when they are aged (Yılmaz & Göçmen, 2015)". It is observed that the participants are worried about their old age.

In-depth interviews conducted with LGBT individuals over the age of 30 living in Antalya in the study "The Concerns of LGBT Individuals Regarding Their Aging Periods". The findings obtained from the study conducted with 6 individuals were presented as a paper at the Senex I. Congress of Aging Studies for Graduate Students (Antalya, November 2017). In the study carried out, LGBT individuals' concerns about old age are listed as the concerns about fundamental human rights, social security, loneliness, care and deprivation of the right to establish civil unions.

We are currently conducting studies on the aging regarding LGBT individuals aged 40 years and over. We are having the difficulty of reaching older LGBT individuals in Turkey. Especially gay, lesbian and bisexual people born in or who were young in the 70-80s are not very visible. The most visible part in this age group are the trans women in Turkey. The intense pressure and violence experienced by the individuals at that time should definitely not be ignored in gerontological services. According to Emlet, It is crucial for gerontological practitioners to be aware of and sensitive to the specific histories and needs of LGBT older adults, including issues of lifetime and current victimization and the effect those experiences have on access to care and quality of life. While the needs of this population are receiving additional attention at local, state, and national levels, continued advocacy for improving access to care and working to remove disparities are critical. (Emlet, 2016).

*Since there are no national and local studies on the elderly LGBT people, advocacy activities in Turkey in this regard is important. Finally; LGBT individuals are not a homogeneous group like other elderly individuals. The acronym LGBT may unintentionally be perceived as referring to a single population, these individuals are idiosyncratic and also include various subpopulations based on sexual orientation, gender identity, and other factors. LGBT older adults are a heterogeneous population with collective and unique strengths and challenges. (Emlet, 2016). The studies conducted and the services pro-*



*vided in this area will be realized in Turkey in a way to protect the fundamental human rights and security of older LGBT individuals while respond to the needs.*<sup>53</sup>.

It is possible to examine and evaluate the articles: Aytac Özelci's "An Analysis of the Elderly and the Elderly Rights From an Administrative Law Point of View"<sup>54</sup> and Münevver Mertoğlu's "The Legal Regulations Implementations for the Rights of Elderly People in Turkey and in the World"<sup>55</sup> in terms of academic studies in the field of old age, in terms of guiding studies on the rights of the elderly.

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53 Seda Kocabıyık, Yaşlılığın Görünmeyen Kesimi: LGBT Yaşlılar, Kaos GL Dergisi 160. Sayı, Mayıs/Haziran 2018, Sayfa 30-33

54 <https://www.jurix.com.tr/article/18350>

55 <https://www.jurix.com.tr/article/3538>



## CONCLUSION

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As can be seen in the report, no legal arrangements, practice and public policy for the elderly LGBTI+ are available in Turkey, and the ones on the elderly in general are not comprehensive to meet the needs of the elders. Even international regulations for older LGBTI + people are still very much in their infancy and there are no global practices that fully meet the needs in the field. International regulations on elderly LGBTI+ are extremely limited. For example, there is no national policy for the requirements of Council of Europe Recommendation CM / Rec (2014)2 covering elderly LGBTI + people. In this sense, there is a serious gap or even an absence in the national fora as well as in the international fora.

In addition, as clearly stated in Regulations of Darülaceze as a precondition for admission to this state-run facility, "The persons should not have a mental disorder, the persons should not have an infectious or a contagious disease", also constitute a risk that may create discrimination in practice.

Although the international regulations regarding elderly LGBTI+ are limited in number, international criteria, standards, practices and regulations in the field of old age should be adapted by being LGBTI+ inclusive and become national regulations and put into practice. Our suggestions regarding the regulations and practices to be made are included in the following Recommendations section.

## RECOMMENDATIONS

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Regarding the elderly LGBTI+ which is currently largely invisible in Turkey, which is however rapidly became visible as a social group in later years, our recommendations for LGBTI+ organizations and for private sector and the central and local governments have been discussed in detail at the meeting held by 17 May Association. The prominent issues in that regard are as follows;

- The approach of the state and private sector to the rights of the elderly leads to violation of rights rather than protecting them. Considering that other social background characteristics accompanying old age determine this stage's conditions, the studies on multiple discrimination should be increased and aging experiences specific to LGBTI+ identities should be reviewed.
- To prevent the state from being the only service provider in the field of social services and facilities, to encourage multidisciplinary expertise and competition, and to pay attention to the cooperation with public, non-governmental organizations and private sector in accordance with the principle of protecting the pluralism; to ensure supervision mechanisms between these organizations are essential.
- In times of crisis like a pandemic, groups that face discrimination for life are the first ones to be abandoned. It has once again been observed that being elderly or LGBTI + is one of the areas where the most discrimination is experienced in the Covid-19 pandemic.

Recommendations provided within the scope of the identified problems and obstacles are divided in two as;

- I) General recommendations
- II) Key Recommendations

## I- General Recommendations:

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- Central government should adopt and bring into force the regulations, practices, standards and criteria in the field of rights of the elderly introduced by the United Nations, the Council of Europe, the European Union and international organizations such as the International Labor Organization into the domestic legislation in a way to cover LGBTI+ persons.
- Central government should adopt and bring into force the regulations introduced by the United Nations Principles for Older Persons and UN Committee on the Elimination of Discrimination Against Women (CEDAW); General recommendation No. 27 on older women and protection of their human rights, 16 December 2010, CEDAW/C/GC/27 in a way to cover LGBTI + persons and should harmonize the regulations and practices in domestic law.
- Local administrations should adopt the LGBTI+ inclusive approach in social services such as nursing homes and healthcare, and should monitor the needs of elderly LGBTI+ people by evaluating them from various aspects such as self-expression and socialization
- The private sector should adopt LGBTI+ inclusive approach in the services it offers for the elderly and should monitor the needs of elderly LGBTI+ people by evaluating them from various aspects such as self-expression and socialization.

## II- Key Recommendations :

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- With regard to old age as a phase, studies should be carried out to create the necessary ground for people to design their own aging years throughout their lives. In summary, the adoption of pension plans suitable for the conditions of each social group by the state and the private sector should be ensured.
- To be able to express and realize sexual orientation and gender identity should be considered within the scope of the right to self-realization and the right to physical and mental integrity, the areas should be provided for expressing SOGIESC at all ages by making the necessary arrangements to remove the obstacles in enjoyment of these rights.



- The necessary changes should be ensured in the legislation to prohibit the discrimination based on SOGIESC and age and in all regulations starting from the Constitution.
- The fact that the right to privacy includes the immunity of sexual life should enter into force in practice.
- Research and studies should be conducted to establish rehab mechanisms against the mental and physical damage that lifetime discrimination may cause on LGBTI + people.
- The mechanisms should be ensured for elderly LGBTI+ can access to home care and institutional care without being exposed to discrimination. It should be ensured that the institutional care and home care to be provided as complementary services rather than substitute services and those should be determined in line with the needs of the persons. Institutional care should be provided by both the public and private sector and NGOs.
- Considering the fact that the construction of social services and care services on a family basis restricts the access of LGBTI+ persons to these services, the construction of care services mechanisms should be ensured based on persons rather than family in the context of the “right to private life”.