



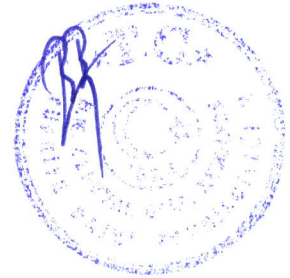
**PERMANENT MISSION OF TURKEY
TO THE UNITED NATIONS
GENEVA**

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The Permanent Mission of the Republic of Turkey to the United Nations Office at Geneva and other international organizations in Switzerland presents its compliments to the Office of the High Commissioner for Human Rights and with reference to the Latter's note dated 16 January 2015, has the honour to transmit the informative note regarding the best practices and experiences compiled by relevant Turkish authorities relating to the right to participate in political and public affairs, on the basis of the Human Rights Council Resolution 27/24.

The Permanent Mission of the Republic of Turkey avails itself of this opportunity to renew to the Office of the High Commissioner for Human Rights the assurances of its highest consideration.

Geneva, 23 March 2015



Encl: As stated

Office of the High Commissioner for Human Rights
Palais Wilson
Geneva

OHCHR REGISTRY

24 MARS 2015

Recipients :...*H.Vales*.....

Enclosure
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Equal Participation in Political and Public Affairs

A-Participation in the conduct of public affairs

1. Do the Constitution and/or other laws of your country provide for the right of individuals to participate in the conduct of public affairs? Please provide information on relevant legislation and constitutional provisions.

In accordance with the Constitution of Turkish Republic;

“All individuals are equal without any discrimination before the law, irrespective of language, race, color, sex, political opinion, philosophical belief, religion and sect, or any such considerations”.

Related provisions are listed here in below;

- 12th Article of the Constitution of the Republic of Turkey;

“Everyone possesses inherent fundamental rights and freedoms which are inviolable and inalienable.”

The fundamental rights and freedoms include the duties and responsibilities of the individual to the society, his or her family, and other individuals.

- The right to participate in the conduct of public affairs is guaranteed in the 70th Article of the Constitution under the title of “Right to enter public service” as follows:

*“Every Turk¹ has right to enter public service.
No criteria other than the qualification for the office concerned shall be taken into consideration for recruitment into public service. ”*

This article reveals three principles adhered with respect to the right to enter public services as: freedom to enter public service, equality and qualification.

- The right to political participation is guaranteed in the Article 67 of the Constitution, which is titled “Right to vote, to be elected and to engage in political activity” and the first paragraph of the Article is as follows:

“In conformity with the conditions set forth in the law, citizens have the right to vote, to be elected, to engage in political activities independently or in a political party, and to take part in a referendum.”

Same article also sets forth the restrictions on voting by stating that:

“Privates and corporals at arms, cadets, and convicts in penal execution institutions

¹ Article 66 of the Constitution defines “Turk” as “everyone bound to the Turkish State through the bond of citizenship” and the Article 48 of the Act on Public Servants sets out certain qualifications to be a public servant and one of these qualifications is “to be a Turkish Citizen”. Within this context, the phrase of “Turk” should be understood under the context of citizenship.

excluding those convicted of negligent offences shall not vote. The necessary measures to be taken to ensure the safety of voting and the counting of the votes in penal 30 execution institutions and prisons shall be determined by the Supreme Board of Election; such voting is held under the on-site direction and supervision of authorized judge.”

The rights regulated in the article 25.b of the ICCPR are also guaranteed in the Constitution ² within the second paragraph of the Article 67 which reads out:

“Elections and referenda shall be held under the direction and supervision of the judiciary, in accordance with the principles of free, equal, secret, direct, universal suffrage, and public counting of the votes. However, the law determines applicable measures for Turkish citizens abroad to exercise their right to vote. ”

2. What is the scope and content of the right to political and public participation as provided in national law?

The right to political participation is guaranteed in the Article 67 of the Constitution, which is titled as “Right to vote, to be elected and to engage in political activity” and the first paragraph of the Article is as follows:

“In conformity with the conditions set forth in the law, citizens have the right to vote, to be elected, to engage in political activities independently or in a political party, and to take part in a referendum.”

As per the national law, the right to participate in political and public life contains;

- Right to enter public services,
- Right to form associations, or become a member of an association, or resign from membership of an association.
- Right to vote, to be elected, and to engage in political activities independently or in a political party, and to take part in a referendum.
- Right to form political parties and duly join and withdraw from them

3. How does the State guarantee that all individuals take part in the conduct of public affairs? Which concrete measures (including legislation) does the State take in order to enable the full and equal political and public participation by members of all groups? How does the State monitor and enforce legislation adopted to enable the full and equal political and public participation by members of all groups?

The state guarantees the right to participate in political and public life of all individuals in equal terms as per the following Constitutional provisions; Article 10 titled “Equality before the Law”, Article 12 titled “Nature of Fundamental Rights and Freedoms”, Article 33 titled “Freedom of Association”, Article 51 titled “Right to Organize Unions”, Article 67 titled “Right to Vote, to be Elected and to Engage in Political Activity”, Article 68 titled “Forming Parties, Membership and Withdrawal from Membership in a Party” and Article 70 titled “Entry into Public Service”. Laws and Decree Laws on participation of persons with disabilities in political and public life”.

4. To what extent are all individuals consulted during the legislative and policymaking

² The Constitution is available at: http://global.tbmm.gov.tr/docs/constitution_en.pdf

processes? Please describe best practices or experiences of representative structures, processes or any other means to encourage participation prior to reaching a political decision.

Public consultation regarding the legislation process, which consists of four stages; tabling a bill, committee debate, plenary debate, presidential approval stage, is mainly carried out during the committee stage. Parliamentary committees may decide on hearing experts, representatives of non-governmental organizations or academicians. After the debates, the committee draws up a report on the bill to be submitted to the Plenary. Many non-governmental organizations and citizens are able to submit their opinions on the related bills according to the current implementation and there have been occasions in which they succeeded to amend the bills in terms of their demands.

The New Constitution Website, which was initiated in 2011, is one of the most important constitution mechanism. Citizens submitted their opinions and contributions during the New Constitution drafting efforts to be taken into account by the Committee on Constitutional Reconciliation. Moreover, to increase the public consultation through NGOs and awareness about the legislation procedure, the Grand National Assembly of Turkey (GNAT) organizes seminars for the NGOs, through which information about the legislation process is presented. To the same end, seminars on legislation process are held at universities.

5. Are there any outreach efforts in place to effectively involve women, indigenous peoples, persons with disabilities, members of minorities and other groups requiring special attention in participatory processes?

The 10th Article of the Constitution of the Republic of Turkey states that *“Each person is equal before the laws regardless of any discrimination on grounds of language, race, color, political view, philosophic belief, religion, sect and any other reasons; women and men have equal rights and the State is liable for translating this equality into practice. The measures to be taken to this aim shall not be contradictory to the principle of equality”*.

Even though participation process of vulnerable groups has not been regulated in an act, this has been encouraged through the efforts of parliamentary committees by inviting representatives of the mentioned groups to committee debates or holding activities to raise the awareness on this issue. For instance, a recent project entitled “Political Leadership in Turkey and Social Gender Equality in Political Participation” and cosponsored by the UN Women, Inter-Parliamentary Union and the Committee on the Equal Opportunity for Men and Women of the GNAT is scheduled to be held between December, 2014 - December, 2017.

B- Right to vote and to be elected

6. Is there universal and equal suffrage in your country? Are the rights of article 25 b) of ICCPR guaranteed by law? If yes, please make reference to such legislation.

The rights regulated in the article 25.b of the ICCPR are guaranteed in the Constitution³ within the second paragraph of the Article 67, which reads out:

“Elections and referenda shall be held under the direction and supervision of the judiciary, in

³ The Constitution is available at: http://global.tbmm.gov.tr/docs/constitution_en.pdf

accordance with the principles of free, equal, secret, direct, universal suffrage, and public counting of the votes. However, the law determines applicable measures for Turkish citizens abroad to exercise their right to vote. ”

7. Which obstacles have been identified as preventing individuals from exercising the right to vote and which measures have been adopted to overcome them?

It has been laid down in Article 53 of the Penal Code that where a person is sentenced to a penalty of imprisonment for an intentional offence, he/she shall be prohibited from voting or being elected and exercising other political rights until the completion of the prison term. However, deeming this provision incompatible with Article 67 of the Constitution, the Supreme Election Board has only applied this restriction to those serving their times in a penitentiary institution. In other words, those serving sentences outside a prison are able to cast their vote, regardless of the gravity or nature of the crime committed. The lifting of the remaining rules that restrict the right to vote require Constitutional and legal amendments.

Ministry of Family and Social Policy have signed Protocol on Sharing Disability Data with Supreme Committee of Elections in order to ensure that persons with disabilities can cast their votes without facing any problems as per Articles 36, 74, 90 and 93 of Law No. 298 on Basic Provisions on Elections and Voter Registers. Within the scope of the concerned protocol, the Ministry instructed the provincial directorates to assess the accessibility conditions of voting stations and to fill in “Accessibility Assessment Form for the Buildings to be Used as Voting Stations” in order to ensure that persons with disabilities can cast their votes during 30 March 2014 elections without facing any problems.

8. Is information on voter registration and on the electoral process (e.g. voting sheets) available in formats and languages, including minority languages, that render them accessible to all? Please provide examples.

Voter registry is stored in Turkish, which is accessible to all voters online. Moreover, electoral rolls are displayed at the relevant neighborhood/village office and kept open for the examination of the people and the concerned. Lists are updated upon objections and circulars are issued and public announcements are made on time through the media.

Article 58 § 2 of the Law on the General Principles of Elections and Electoral Registers, which had provided that only the Turkish language could be used in election campaigns and political propaganda to be made by the candidates, was amended on 2 March 2014. The provision now reads as follows: “All propaganda by political parties and candidates can be made in different languages and dialects other than Turkish.” Accordingly, political parties and candidates are now free to make propaganda in different languages and dialects.

9. If voter registration is required, how is it facilitated? Are education and registration campaigns organized prior to major elections?

The records contained in the address-based database of the General Directorate of Population and Nationality Affairs, which belong to Turkish nationals currently reside in Turkey and which are eligible voters are converted into the electoral register by the General Directorate of Electoral Register. Pursuant to Article 50 of the Law no. 5490, although eligible, Turkish nationals shall not be listed in the electoral register and cannot vote unless they register to the Address Registry System.

Prior to every election, electoral rolls are set on display for two weeks in convenient spots of village/neighborhood offices, so as to allow corrections of mistakes and rectification of any shortcomings. The locations of these lists, the dates on which they will be on display and the charts showing electoral regions and ballot box locations are announced through local newspapers and other customary methods. Moreover, as per Articles 39, 40, 42 and 43 of the Law on the General Principles of Elections and Electoral Registers, the relevant circulars issued by the Supreme Election Board are announced countrywide through the media.

With a view to ensuring that people are able to exercise their right to vote and increasing turnout in elections, prior to every election, the Supreme Election Board prepares educational and informative visual material such as short videos to be aired on national TV channels. These materials inform of the fact that electoral rolls have been set on display and that voters should apply to district election boards and get registered during this time if they cannot find their name on the list.

The last sentence of Article 29 of the Law on the General Principles of Elections and Electoral Registers reads as follows: "The Supreme Election Board shall inform the public by way of continuous information programs, on the importance of the electoral register, the methods used in its preparation, voters' duties, the contribution and benefits of this work to the public and the State, the methods used and the information required, which shall include all nationals throughout the country".

In accordance with the provisions stated above, concerning the 25th term General Parliamentary Elections, which will be held on 7 June 2015, it has been decided that informative banners and leaflets be prepared and delivered and short videos be aired on national TV channels. These materials remind Turkish nationals living at home or abroad that they should check whether they are registered to vote and what steps they should take if they are not registered or their information is outdated; which items they should carry when they go to polling stations, how they should cast their ballot, how their ballot may be considered invalid, how the results of the election shall be determined and announced, how they can follow their votes online, etc.

10. With respect to the right to vote and to be elected, how are the rights and needs of members of specific groups (women, persons with disabilities, minorities, indigenous peoples, first-time voters, etc.) taken into account?

It has been laid down in Article 67, titled "Right to Vote, to be Elected and to Engage in Political Activity" of the Constitution that "In conformity with the conditions set forth in the law, citizens have the right to vote, to be elected, and to engage in political activities independently or in a political party, and to take part in a referendum" and "All Turkish citizens over 18 years of age shall have the right to vote in elections and to take part in referenda", in Article 76 that "Every Turkish national over the age of 25 can stand for parliamentary elections". Moreover, it has been laid down in Article 10, titled "Eligibility for Candidature" of the Parliamentary Election Law (no. 2839) that "Every Turkish citizen who has completed the age of twenty five shall be eligible for candidature", in Article 12, titled "Candidature" that "Every Turkish citizen eligible for candidature can stand for elections. There is no obligation of being a political party member for candidature." As it can be inferred from the provisions cited above, no distinction has been made (such as women, the disabled, minorities) as to the right to vote and to stand for elections.

As per Articles 3, 4 and 5 of the Parliamentary Election Law, constituencies and the number of MPs to be elected from these constituencies shall be announced through the Official Gazette, radio and TV channels. The necessary environment is provided to ensure that political parties and independent candidates can compete in equal conditions.

11. What are the legal restrictions to the right to stand for election in your country, if any? Which practical obstacles have been identified in relation to the right to be elected? Which measures have been put in place to overcome these obstacles?

It has been laid down in Article 76, titled "Eligibility to stand for parliamentary elections" that "Persons who have not completed their primary education, who have been deprived of legal capacity, who have failed to perform compulsory military service, who are banned from public service, who have been sentenced to a prison term totalling one year or more excluding involuntary offences, or to a heavy imprisonment; those who have been convicted for dishonourable offences such as embezzlement, corruption, bribery, theft, fraud, forgery, breach of trust, fraudulent bankruptcy; and persons convicted of smuggling, conspiracy in official bidding or purchasing, of offences related to the disclosure of state secrets, of involvement in acts of terrorism, or incitement and encouragement of such activities, shall not be elected members of parliament, even if they have been pardoned."

Moreover, Article 11, titled "Ineligibility to stand for parliamentary elections" of the Parliamentary Election Law reads as follows:

"The following shall be ineligible for candidature:

- a) Those who do not have a primary school graduation,
- b) Those who have been deprived of legal capacity,
- c) Those who have not completed their military service (if they have such an obligation),
- d) Those who are banned from civil service,
- e) Those who have been sentenced to a prison term the total of which is equal to or longer than one year or those who have been sentenced to heavy imprisonment, regardless of the term of the prison sentence, except for negligent offences;
- f) Those who have been convicted of the following offences, even if pardoned;

1. Disgraceful offences such as embezzlement, misappropriation, bribery by a government official, bribery, theft, swindling, forgery, abuse of confidence, fraudulent bankruptcy and smuggling other than smuggling for personal use and consumption, manipulation of governmental tenders, procurements or sales, or disclosure of state's secrets.

2. Committing one of the offences mentioned in the Turkish Penal Code, Second Book, First Chapter or publicly provoking such offences;

3. Terrorist activities;

4. Committing one of the offences described in Article 536; paragraph 1, 2 and 3 of the Turkish Penal Code and Article 537; paragraphs 1, 2, 3, 4 and 5 of the Turkish Penal Code for political and ideological purposes."

Those who are ineligible to stand for elections based on the provisions stated above cannot stand for elections unless a court decision has been taken under Articles 121 to 124 of the Penal Code or under Article 13/A of the Judicial Record Law (concerning the restoration of forfeited rights).

12. What positive measures have been taken to ensure that women, members of minorities, indigenous peoples, persons with disabilities and members of other disadvantaged groups are able to stand for elective office?

These issues have already been covered in response to question 10. In addition, the Article 83 of the Law Nr.2820 on Political Parties stipulates that “the political parties may not pursue any goals against the principle that all is equal before law with no sort of discrimination whatsoever on the basis of language, race, color, sex, political opinion, philosophical belief, religion, sect etc.” and prevents the political parties from any discriminatory actions, with the gender discrimination included.

Moreover, although Turkish Legislation does not include a provision on positive action with regard to nominees with disabilities, political parties provide convenience for persons with disabilities who want to be a nominee in elections.

13. What measures (including legislative measures) are in place to ensure that candidates for elective office are not faced with discrimination, harassment, and violations of their rights to freedom of opinion, expression, assembly and association?

The issue of Election Propaganda is regulated in Part Two, Articles 49 to 66 of the Law on the General Principles of Elections and Electoral Registers. Article 49 provides:

“Election propaganda activities shall be free under the provisions of this Law.

Political propaganda shall commence on the morning of the tenth day in advance of the election day and terminate at 18:00 hours on the day before the date of election.”

Moreover, the procedure and principles to be followed by political parties and independent candidates as to their political propaganda and promotion activities are set forth in the following articles of the same Law: Article 50 (Propaganda in open spaces), Article 51 (Indoor propaganda activities), Article 51/A (Election offices), Article 52 (Propaganda via radio and TV channels), Article 55/A (Broadcasts via private radio and TV channels), Article 55/B (Propaganda via the press, communication tools and the internet), Article 56 (Propaganda using megaphones), Article 57 (Distribution of printed and other material for propaganda), and Article 60 (Places for announcements and advertisements).

Furthermore, as per Article 58 of the Law, which reads “All propaganda by political parties and candidates can be made in different languages and dialects other than Turkish”, candidates are able to make political propaganda in any language and dialect they may prefer.

These provisions guarantee the candidates’ freedom of expression and assembly.

14. Please explain how possible interferences with, the electors’ will and with voter or candidate registration are avoided. Is undue interference prohibited by law? How does the State ensure effective access to judicial and other remedies in case of violations?

The Law on the General Principles of Elections and Electoral Registers provides, insofar as relevant:

“Article 82

...

(3) The chairman shall warn any person preventing voters to cast their votes freely and confidentially, preventing the polling station committee to perform its operations or disturbing order of all voting actions and procedure including the counting, classification and registration of votes. Any person who fails to obey this warning shall be expelled from the polling station area by the law enforcement.

...

(5) The chairman or any member of the polling station committee shall immediately call the law enforcement to expel those who attempt to disturb the order of the polling station by way of coercion, violence or threats.

(6) Those who fail to obey the rules stated above in penitentiary establishments and detention centers shall be expelled from the polling station area after consulting the opinion of the prison administration and without compromising the security of the establishment.

(7) The law enforcement officials to be called on as per this Article shall abide by the requests of the chairman or the decision of the committee.

...

Article 86

(1) Every voter registered in the approved electoral roll at the polling station shall be entitled to cast vote.

...

Article 88

Voters shall not be subject to any interference, solicitation or advice at the polling station and voters shall not be allowed to stay by the ballot-box after casting their vote.”

The provisions cited above are aimed at ensuring that voters can cast their ballots safely and to prevent any interference with electors’ will. The following penalties have been laid down in the same Law in respect of those who fail to obey these rules and against any interference:

Article 143

(1) Any person who has had himself/herself or any other person registered in a voters’ register in any way although ineligible or prevents the removal of such ineligible persons from a voters’ register or causes an eligible voter to be removed from a voters’ register shall be punishable by prison terms from six months to two years.

(2) If the above-described offences have been committed by using violence, threat or coercion or by using undue influence, then the offender shall be punishable by prison terms from one year to five years.

...

Article 148

(1) Those who forge in part or in whole fake voters' registers or rolls or those who alter, steal or destroy such lists shall be punishable by increasing by half the penalty to be imposed under the provisions of the Penal Code relating to the offense of falsifying official documents.

(2) Those who steal, alter or destroy documents related to voters' registers or rolls shall be punishable by the same penalties.

(3) Those who commit one of the offences described above on a document that serves to prove the identity of a voter or those who hide such documents in order to prevent a voter from exercising the right to vote shall be punishable by prison terms from six months to two years.

...

Article 153

...

(3) Those who unlawfully prevent a voter registered in the electoral roll from entering the voting place or casting vote on the election day shall be punishable by prison terms from one to three years.

(4) Those who use threats, coercion or violence in the constituency concerned, with the aim of preventing an eligible voter from going to the polling station, entering the ballot-box area or casting vote shall be punishable by prison terms from three to five years. In case these acts are committed against two or more voters, the penalty to be imposed shall be increased by one third to half".

C- Equal access to public service

15. What are the conditions for access to public service in your country? Do any restrictions apply? How is the requirement for equal access met?

Each citizen has the right to access public services in equal terms in Turkey. As per the Constitution of the Republic of Turkey; "All individuals are equal without any discrimination before the law, irrespective of language, race, color, sex, political opinion, philosophical belief, religion and sect, or any such considerations".

Measures to be taken for children, the elderly, disabled people, widows and orphans of martyrs as well as for the invalid and veterans shall not be considered as violation of the principle of equality.

All citizens have the right to access to public services (education, health etc.) equally and there are no restrictions, according to the related legislation and Constitution of the Republic of Turkey, in particular.

16. How does the State ensure that recruitment processes used by government authorities and political associations are transparent, objective and reasonable? Which measures (e.g. temporary special measures, quotas, etc.) are in place to ensure the equal recruitment of women, minorities, persons with disabilities and members of other disadvantaged groups?

Article 50 of the Law on Civil Servants No. 657 reads as follows:

“Persons to be recruited as civil servant are obliged to take and succeed in the examinations to be held for a certain position. The procedures and principles with respect to examinations, and the services and positions for which candidates are not obliged to take examination and the principles for the candidates of such services and positions are regulated by general regulations, which will be issued by the State Personnel Administration.”

Article 1 of the “General Regulation on Examinations to be held for Persons who will be employed as Public Servant for the First Time”, which was issued in accordance with the Article 50 of the Law on Civil Servants No. 657, reads as follows:

“The aim of this regulation is to specify the general procedures and principles for the examinations that will be held for persons who will be appointed as public servant for the first time, and for those who will be recruited in positions in the state institutions and organisations for which candidates are required to take a special competitive examination.”

In addition, Article 53 of the Law No 657 that regulates the recruitments of Persons with disabilities reads as follows:

According to the Law, institutions and organisations are obliged to allocate 3% of their total staff for persons with disabilities. In calculating the rate of 3%, the total number of employed staff of the institutions and organisation is taken into account. The examinations for persons with disabilities are centrally held by or on behalf of the relevant institutions and organisations, by means of preparing exam questions and ensuring their accessibility, in respect of disability types and educational status of the candidates, as long as there are available vacancies for persons with disabilities. These examinations are held at a different time than those for persons who will be appointed as public servant for the first time”.

Pursuant to the provisions of the “Regulation On the Public Servant Selection Examination for Persons with Disabilities and Recruitment of Persons with Disabilities as Public Servants” which came into force with regard to the above mentioned article, persons with disabilities are recruited in positions in state institutions and organizations according to the results of lots and Public Servant Selection Examination for Persons with Disabilities which will be held, considering their educational status and disability types.

Within the scope of the provisions stated above, public servants to be employed in state institutions and organizations are directly recruited in positions in state institutions and organizations in accordance with the results of Public Servants Selection Examination held on a regular basis or they are recruited in certain positions that are specified according to public welfare or service requirements, as a result of written or oral examinations additionally held among a specific number of candidates who are called in pursuant to the highest KPSS (Public Servant Selection Examination) scores. On the other side, primary school graduate candidates with disabilities who will be employed at the rate of 3% of the total employed staff in state institutions and organizations are recruited by lot and high-school graduate and postgraduate candidates are recruited according to the results of Public Servant Selection Examination for Persons with Disabilities. Candidates with disabilities could be appointed by their choice, as a means of the methods applied according to the results of both KPSS (Public Servant Selection Examination) and EKPS (Public Servant Selection Examination for Persons with Disabilities). Furthermore, gender discrimination is not allowed among the personnel who will be employed in state institutions and organizations. All candidates are