

The Government of the Republic of Korea hereby presents its response to the questionnaire of the Office of High Commissioner on Human Rights for the study on the equal participation in political and public affairs, as envisaged in Resolution 27/24 of the Human Rights Council.

Participation in the conduct of public affairs

1. Political Rights provided by the Constitution and other laws

1.1. The Constitution provides the right to vote (Art. 24), the right to hold a public office (Art. 25), and the right to submit a petition to the State (Art. 26)

1.2. Public Official Election Act, State Public Officials Act, Local Public Officials Act, Petition Act, and Local Autonomy Act have been enacted, as mandated by the above provisions in the Constitution, for the details of related matters.

Relevant Provisions

Constitution:

- Article 24 All citizens shall have the right to vote under the conditions as prescribed by Act.
- Article 25 All citizens shall have the right to hold public office under the conditions as prescribed by Act.
- Article 26 All citizens shall have the right to petition in writing to any governmental agency under the conditions as prescribed by Act.

Public Official Election Act:

- Articles 6 and 6-2 provides for the right to exercise one's voting franchise
- Article 15 provides, "a national of 19 years of age or above shall have a voting right for the elections of the President and the members of the National Assembly.
- Article 16 provides for the electoral eligibility

Local Autonomy Act:

- Article 13 provides for the voting right of the residents in the elections of the members of local councils and the heads of local governments.
- Article 14 provides for the residents' voting on major matters imposing an excessive burden or

having a significant effect on the residents.

- Article 15 provides for the right of the residents to request for enactment, revision or abolition of municipal ordinance.
- Article 16 provides for the residents' right to request for inspection.
- Article 17 provides for the residents' right to bring a lawsuit against the head of the local government
- Article 20 provides for the residents' rights to summon the head of the local government and the members of local council

2.1. Please refer to the response for the first question.

2.2. To elaborate, the Constitution guarantees the right to vote and right to hold a public office of all citizens. Foreigners with permanent residency status also have the right to vote in local elections and may be appointed to public office with the exception of national security and fields related to security and confidentiality (Art. 26(3) of the *State Public Officials Act*).

3.1. The Constitution and other laws provide the legal basis for such rights. The Election Commission is established as an independent constitutional agency for the fair management of election, which constitutes the foundation of democracy, referendum, and affairs related to political parties,

3.2. Appointment of state and local officials is made in accordance with the capabilities of individuals on the principle of open competitive recruitment. All individuals are thereby guaranteed the right to hold a public office.

4.1. The president, national assembly members, local council members, and the head of local government bodies are elected through universal, equal, direct and secret ballot by the people according to the Constitution and the *Local Autonomy Act*.

4.2. Regarding participation in the procedures for enacting general policies and laws, opinions of individuals are reflected in the procedures for enacting general policies and laws in accordance with the *Administrative Procedures Act* and the *National Assembly Act*.

4.2.1. The *Administrative Procedures Act* requires administrative agencies to take necessary opinion-seeking procedures or hold a public hearing when rendering a disposition (Art. 22). To hold a public hearing, an administrative agency shall, at least 14 days before the commencement of the public hearing, inform the general public by publishing contents about the event in the Official Gazette, official bulletins, daily

newspapers and on the internet (Art. 38).

4.2.2. The *National Assembly Act* also requires the holding of hearings and public hearings. Individuals can submit a petition to the National Assembly in accordance with the *Petition Act* or present their opinion via general petition policies.

5.1. Regarding recommendation of candidates by political parties, Article 47 of the *Public Official Election Act* states that when any political party intends to recommend its members as candidates to run in the proportional representative National Assembly member election and candidates to run in the proportional representative local council member election, such political party shall recommend not less than 50/100 of the candidates from among women.

5.2. Furthermore, Article 6 of the said law provides for the discretion of election commissions at all levels to formulate necessary measures to provide convenience to electors with mobility issues due to disabilities, age or weakness, in order to ensure exercise of franchise. The State is required by Article 27 of the *Act on the Prohibition of Discrimination against Disabled Persons* to provide facilities or equipment, promote and convey information, appropriate balloting methods to guarantee the political rights of persons with disabilities.

Right to vote and to be elected

6.1. Regarding elections such as those included in the response to Question 4, the principle of universal, equal, direct and secret ballot by the people are each stated clearly in Article 67 (President) and Article 41 (National Assembly) of the Constitution; Article 31 (Members of Local Councils) and Article 94 (Head of Local Government Body) of the *Local Autonomy Act*.

7.1. In order to ensure exercise of voting rights, the days of elections due to the expiration of terms of office are designated as legal holiday except for private enterprises according to the *Regulations on Holidays of Public Offices*, a Presidential Decree. Also, Article 10 of the *Labor Standards Act* states that “an employer shall not reject a request from a worker to grant time necessary to the franchise or other civil rights, or to perform official duties, during working hours”, thus ensuring the exercise of voting rights.

In order to further protect the right to vote, the *Public Official election Act* was amended in 2014, so that any employee may request his/her employer to permit voting leave for hours necessary for voting and the employer shall guarantee the requested voting leave. Also, any employer shall notify the employees, through a web-site, in-house newsletter, or in-house bulletin board during a period between seven days and three

days before the election day, that they may request voting leave for hours necessary for voting.

7.2. Special cases concerning overseas elections are provided in the *Public Official Election Act* for overseas Korean to exercise suffrage in the presidential election and as well as election for a member of the National Assembly whose term of office has expired.

7.3. According to Article 38 of the *Public Official Election Act*, persons for whom physical movement is inconvenient or persons with other legitimate reasons may vote at a residence or on board a ship after registering for absentee voting during the electoral register preparation period.

8.1. In Korea, while no persons had suffrage as a member in a linguistic minority group, the number of naturalized foreigners or with a permanent resident status is increasing. In the case of the Multicultural District of Wongokbon-dong, Danwon-gu, Ansan City, where many foreign laborers reside, guidelines were distributed in Korean and foreign languages for the 2014 local election, thereby preventing any setback in voting right.

8.2. For the convenience of people with impaired vision, candidates were allowed to provide official campaign literature in braille and special ballot paper was made for the use by such electors.

9.1. Voters, according to Article 37 of *Public Official Election Act*, are defined as persons whose resident registration have been made in the relevant district, citizens residing in a foreign country whose domestic domiciles have been reported in the relevant district are managed by the electoral register and need not register separately. Military servicemen or persons with mobility issues, seafarers on deep-sea fishing vessels etc. who fall under Paras. 1-5. of Article 38 of the said law are allowed to register in writing at a residence or on board a ship.

10.1. Regarding recommendation of candidates by political parties, Article 47 of the *Public Official Election Act* states that when any political party intends to recommend its members as candidates to run in the proportional representative National Assembly member election and candidates to run in the proportional representative local council member election, such political party shall recommend not less than 50/100 of the candidates from among women. Furthermore, Article 6 of the said law provides for the discretion of election commissions at all levels to formulate necessary measures to provide convenience to electors with mobility issues due to disabilities, age or weakness in order to ensure exercise of voting franchise.

11.1. Legal restrictions concerning age, criminal punishment, and declaration of incompetence etc. are listed in Articles 16 and 19 of the *Public State Officials Act*. For heads of local government body or members of

local councils, there is a limit regarding period of residence in the respective district.

12. Provisions that allow an assistant for any handicapped candidate (expenses for which are to be borne by the State) ensure the right to be elected of such candidate.

13.1. Article 11 of the *Public Official Election Act* guarantees the status of a candidate for the presidential election by not arresting or detaining him unless he is caught while committing a crime. Also, for a fair election, an election campaign may be allowed during the period from the commencing date of election period to the day before the election day (Article 59) while simple statement of opinion or manifestation of an intention on the election, statement of opinion on support or opposition to the recommendation of a candidate or manifestation of an intention thereof, and ordinary political party activities are not limited during the period.

14.1. Article 255 of the *Public Official Election Act* provides for punishment of unlawful election campaign for the cause of acts specified as interference with fair election. Of the same Act, Article 242 provides for punishment of interference with and intervention in voting or ballot counting, and Chapter 16 provides for penalties regarding all kinds of unfair acts in the course of elections.

Equal access to public service

15.1. All citizens can apply for the recruitment examination for public officials with the exception of an age limit (18 or 19 years of age or above depending on the grade) and grounds for disqualification according to Article 33 of the *State Public Officials Act*.

16.1. By adopting an open competitive recruitment examination, the largest possible number of people is offered opportunity and the fairness of recruitment processes is ensured on the basis of a consistent standard.

16.2. Where it is deemed necessary, to promote the appointment of persons with disabilities or members of other disadvantaged groups to public offices, Article 2. etc. of the *Decree on the Appointment Examination of Public Officials* provides for a kind of quota system in which only persons with disabilities or certain people can apply for a separate examination (thus separating the process of recruitment) for a portion of the scheduled number of employment.

Other

17.1. The rights protected in Article 25 of ICCPR are granted as constitutional rights. Universal suffrage is guaranteed in the Republic of Korea and there are certain limits in the voting age and the grounds for disqualification are specified in the relevant law.

18.1. Freedom of press and freedom of association and assembly are ensured as constitutional rights while licensing or censorship of press and licensing of association and assembly are not recognized.

18.2. Regarding freedom of press, the constitution limits that “neither speech nor the press shall violate the honor of rights of other persons nor undermine public morals or social ethics”,

18.3. Article 37 Paragraph 2 of the Constitution, which provides for general restrictions to fundamental rights that the freedoms and rights of citizens, including the freedom of press and freedom of association and assembly may be restricted by Act only when necessary for national security, maintenance of law and order, or public welfare.

18.3.1. Even when fundamental rights may be restricted by Act, principle of proportionality should be respected and essential contents of fundamental rights shall not be infringed.

19.1. Article 2 of the *Framework Act on Education* of the Republic of Korea which provides for principle of education, aims at enabling “every citizen to lead a life worthy of humankind and to contribute to the development of a democratic state”. Accordingly, education on rights to participate in political and public affairs is specified in the curriculum of elementary and middle schools.

19.1.1. Autonomous student activities are promoted in schools for democratic representative procedures and discussion, cooperation and participation.

20.1. According to Article 29 paragraph 1 of the Constitution and the *State Compensation Act*, not only judicial procedure, such as claiming for compensation against the State when suffering damages on relevant rights due to the unlawful act committed by public official, but also simplified remedies through National Human Rights Commission, which was established in accordance with the *Paris principles*, and Anti-Corruption & Civil Rights Commission, an ombudsman agency, are provided.