



Mandate of the Independent Expert on the enjoyment of all human rights by older persons

Call for contributions: Ageism and Age-Discrimination

Forms and manifestations of ageism and age-discrimination

1. **What forms does age discrimination affecting older persons take and which ones are the most prevalent? Where available, please provide concrete examples and collected data including in employment, education, social protection, and health, financial and social services.**

In 2019, Unia opened **143 cases¹ on age discrimination** based on individual complaints submitted to the organisation. Slightly less than half of the cases opened concern work and employment (46.9%), followed by access to goods and services (38.5%). In the area of employment, it is the recruitment process that causes the most problems (58,2%). These problems mostly affect the 45-54 age group, followed by those aged 55-64 (19.4%). In the area of access to goods and services, Unia receives most individual complaints from persons under 25 or from persons aged 65 and older. Young people most often report problems with access to housing. For older people, the issue mainly concerns access to banking and insurance services: often this involves denial of insurance or excessive insurance premiums.²

In 2019, Unia received several **complaints about banks' savings plans** that are based on age categories. In one instance a savings account with a higher interest rate was granted to customers under the age of 40. Numerous banks have such age-related savings plans, for example savings accounts for babies and children or young adults. A Royal Decree explicitly provides that a regulated savings account may be subject to conditions related to the age of the saver. Because the distinction is imposed by or pursuant to a law, anti-discrimination legislation does not apply. The distinction made on the basis of the saver's age is permissible under anti-discrimination law because it has a legal basis.³

Examples of **court cases** regarding age discrimination in employment in 2019-2020:

- A woman applies for a position of executive secretary, but is informed that she will not be hired. She received an e-mail that clearly refers to her age and her lack of IT knowledge. The 25-year old candidate who is hired, turns out to have the same level of IT knowledge. The Court ruled that it was a case of age discrimination.⁴
- Skeyes, the public company responsible for Belgian air traffic control, was convicted of age discrimination. The company only allowed candidates up to 25 years old to take part in the

¹ Unia opens a case when (1) an individual complaint refers to a ground for discrimination for which Unia is competent or when it concerns the rights of persons with disabilities, and (2) when the complainant expects concrete advice or other type of intervention.

² Unia, Rapport Chiffres 2019, Brussels, 2020, available at:

https://www.unia.be/files/Documenten/Jaarrapport/2020_Rapport_chiffres_2019_DEF.pdf

³ Unia, Rapport Annuel 2019, Brussels 2020, available at:

https://www.unia.be/files/Documenten/Jaarrapport/Rapport_annuel_2019_AS.pdf

⁴ <https://www.unia.be/fr/jurisprudence-alternatives/jurisprudence/tribunal-du-travail-wavre-19-fevrier-2019>

recruitment exams. The court ordered an end to the discriminatory practice, failing which Skeyes must pay a penalty.⁵

- An employee is dismissed shortly before his retirement. The employer used the shortened notice period provided for by law and based the dismissal on the employee's attitude. The court however found no real evidence of the tensions between the parties and stated that, on the contrary, the age was at the basis of the dismissal and was therefore discriminatory.⁶

2. Please provide information and data collected about the causes and manifestations of ageism in society, both for younger and older generations, and how it translates into discriminatory practices.

In 2012, Unia commissioned a study on **age-based stereotypes and prejudice in employment**.⁷ The research shows that employees are aware of prejudice and stereotypes in the workplace and that they recognise that there is a social perception of young and old. However, age is not only associated with a certain age, but also with certain characteristics. For example, being old is associated with a mental attitude ('worn out'); being young with the number of years of work experience (less than 2 years) and being free of obligations.

Older workers are perceived as having less adaptability, a greater sense of responsibility, reduced cognitive capacity, more stress, higher absenteeism but greater professional experience and maturity. Today, however, older people are primarily perceived as workers who wish to retire before the current retirement age of 65. On the other hand, the stereotype of older people with reduced adaptability is less prevalent today: they are said to have fewer difficulties in using new technologies, do not need more time to learn something new than younger people and can cope better with an increased work rhythm. However, a decrease in negative stereotyping of older people in this respect is counterbalanced by an increase in the perception of older people as a worker with more concentration problems, more stress and higher absenteeism.

Young people, on the other hand, are perceived as having a reduced work ethic, less discipline, demanding, disloyal, inexperienced, arrogant and self-confident, but with better communication skills and a dynamic and inquisitive nature. A small majority believes that many young people have to work below their level because otherwise they will not have opportunities on the labour market. It is also a "prejudice" that is more often denounced by young people themselves; this does not seem to be a prejudice but rather a reality. The problem for young people is mainly their lack of experience. They are not given opportunities because they have no experience, but because they have no experience they are not given opportunities. They are, as it were, trapped in a vicious circle. One of the most widely held stereotypes is that of the young person who pays more attention to work-life balance, which is not necessarily negative.

Even though employees recognise the existence of prejudices and stereotypes, the study they are not aware of the fact that it is not permissible to discriminate on the basis of age when recruiting. Like employers, they adopt a lax attitude and even seem to condone the discriminatory behaviour of employers. **Almost 1 in 3 considers age discrimination in employment to be justified.** Age is the first (distinguishing) recruitment criterion inherent to the person that is most often denigrated by

⁵ <https://www.unia.be/fr/jurisprudence-alternatives/jurisprudence/tribunal-du-travail-danvers-8-decembre-2020>

⁶ <https://www.unia.be/fr/jurisprudence-alternatives/jurisprudence/tribunal-du-travail-danvers-8-decembre-2020>

⁷ Ipsos Public Affairs, Opinieonderzoek 'te jong, te oud?': Stereotypen en vooroordelen met betrekking tot leeftijd op de werkvloer, 2012, available at: https://www.unia.be/files/Documenten/Publicaties_docs/Eindrapport_Te_jong_te_oud_NL_final.pdf.pdf



employees after the person's external features (looks, manner of speaking, physical appearance). Both employers and employees consider the main reason to justify age discrimination in the workplace is economic profitability. Actions and decisions are based on the "right person for the job" principle; the person must adapt to the job and not the other way around.

- 3. From an intersectional perspective, are there specific factors that aggravate ageism and age discrimination and how? Please provide concrete examples and collected data where available.**

N/A

Legal, policy and institutional frameworks related to ageism and age-discrimination

- 4. What international, regional and national legal instruments are in place to combat ageism and age discrimination?**

- At **EU level**, instruments include: the Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation
- At the **national level**, instruments include: the Anti-Discrimination Law of 10 May 2007.
- At the **regional level**, instruments include:
 - Flanders, Framework Decree for the Flemish equal opportunities and equal treatment policy (2008)
 - French Community, Decree combatting certain forms of discrimination (2008)
 - Walloon Region, Decree combatting certain forms of discrimination (2008)
 - Brussels Capital Region, Ordinance combating discrimination and equal treatment in employment (2008)
 - German speaking Community, Decree combatting certain forms of discrimination (2012)

- 5. Please also note any action plans or policies to raise awareness and combat ageism (including antiageism in school curricula) and to move toward a more age-friendly and inclusive society.**

N/A

- 6. At the national level, please outline the legal protections available against age discrimination and indicate whether age is explicitly recognised as a ground for discrimination? If so, are there specific areas for which equality is explicitly guaranteed? Are there any areas where differential treatment based on older age is explicitly justified?**

Age is explicitly included as a prohibited discrimination ground in the different anti-discrimination laws. However, there are specific justifications provided in the area of employment:

- age-based differentiations are justified when age constitutes a genuine occupational requirement (Art. 8 Anti-Discrimination Law of 2007)
- age-based differentiations are justified when they are objectively and reasonably justified by a legitimate purpose, including legitimate employment, labor market, or other similar



legitimate policy objectives, and the means of achieving that purpose are appropriate and necessary (Art. 12 Anti-Discrimination Law of 2007).

- 7. Do the existing legal protections against age discrimination allow for claims based on intersectional discrimination, that is discrimination which is based on the intersection of age and other characteristics such as race, ethnicity, gender, disability, sexual orientation or other status?**

No, a prohibition of multiple or intersectional discrimination is not included as such in the anti-discrimination legislation.

- 8. What legal and other measures have been taken to address and protect from racism, sexism, ableism or other similar forms of discrimination that might be useful models for addressing ageism?**

N/A

- 9. Please indicate if there are institutional or complaints mechanism to address inequalities or grievances related to ageism and age discrimination. If so, please provide statistics on cases and types of cases received?**

Unia is competent for discrimination on the basis of age and receives individual complaints in this regard. For the number and types of cases, please see supra, question 1.

Reports related to ageism and age discrimination and other relevant information

- 10. Please outline any other areas that you deem important in the context of ageism and age discrimination. Thank you for sharing any relevant reports about ageism and age discrimination.**

There is a serious need for awareness-raising campaigns and training on the rights of older persons, including on age discrimination and ageism. These should be aimed at the general public, but specific awareness-raising is also necessary for policy makers, health care professionals, employers, etc.

For more information about age discrimination in the context of the Covid pandemic, please see [FRA Bulletin nr. 3: Coronavirus pandemic in the EU - Fundamental Rights Implications](#).

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