

“Trade Unions against Discrimination”
ETUC project

4th Learning Seminar on Ageism

Background document

1. International policy framework

In many international conventions, treaties and initiatives on discrimination, age discrimination is mentioned among the (multiple and intersectional) conditions that can lead to a violation of a person's fundamental rights. Age is often associated with sex, gender, disability, ethnicity, or belonging to oppressed or minority groups, and the mutual interaction of all these elements can aggravate the conditions of discrimination. Nevertheless, the international policy framework has not produced a comprehensive legislation addressing age discrimination issues.

Despite references in international human rights conventions to the conditions experienced by children, teenagers or young people, the issue of age is predominantly declined in terms of the condition of older persons.

In 2002, the UN General Assembly endorsed the *Political Declaration and Madrid International Plan of Action on Ageing*¹ (MIPAA). In Article 5, the declaration makes a commitment to eliminating all forms of discrimination, including age discrimination. Endorsed by 159 governments, MIPAA is not legally binding, and its implementation is voluntary. It focuses on three priority areas: older persons and development; advancing health and well-being into old age; and ensuring enabling and supportive environments. Although the MIPAA focuses on older generations, Article 16 calls for an intergenerational approach: “We recognize the need to strengthen solidarity among generations and intergenerational partnerships, keeping in mind the particular needs of both older and younger ones, and to encourage mutually responsive relationships between generations.”

There are far fewer cases of attention being paid to the younger generation. One of those is the *World Programme of Action for Youth to the Year 2000 and Beyond*², adopted by the UN General Assembly in 1996, which provides a policy framework and practical guidelines for national action and international support to improve the situation of young people around the world. It is intended to support the full enjoyment of all human rights and fundamental freedoms by young people, encourage governments to take action against violations of these rights and freedoms, and promote non-discrimination and tolerance, equality of opportunity, solidarity, security and the participation in society of all young women and men.

¹United Nations – Department of Economic and social Affairs, *Madrid Plan of Action and its Implementation*, <https://social.desa.un.org/issues/ageing/madrid-plan-of-action-and-its-implementation-main/madrid-plan-of-action-and-its>

² <https://www.un.org/esa/socdev/unyin/documents/wpay2010.pdf>

In 2020, several UN agencies including the World Health Organization and the United Nations High Commissioner for Human Rights promoted the *Global Report on Ageism*³. Building on the recognition that ageism affects rights and the full development of social opportunities for younger and older persons, the report highlights three strategies to combat it: “Policy and law” (policies and legislation that address age discrimination and inequality and human rights laws), “Educational interventions”, “Intergenerational contact interventions”.

The ILO has extensively introduced – albeit not by way of ad-hoc conventions – the theme of inclusion and combating age discrimination in the labour market. Wide attention is paid to older workers, especially by calling for “aging-friendly workplaces”: “negative attitudes towards hiring and retaining older workers are rooted in perceptions that portray them as slow learners, less adaptable and in poor health. Age-unfriendly working conditions are a manifestation of discrimination against them”⁴. For what concerns younger workers, the ILO notes that “Less favourable treatment, often unjustified, on the basis of age seems to play an important role in explaining the lower occupational attainments of younger workers and, in particular, their over-representation in casual jobs with lower benefits, training opportunities and career prospects”.

2. Legislation at European level

In EU law, the fight against ageism is part of the broader framework to combat all forms of discrimination, promoted by the European Union through a series of directives and regulations aimed at protecting the fundamental rights of all.

The EU legal framework on combating age discrimination is based on:

- The *Charter of Fundamental Rights of the European Union* proclaimed in 2000 and made legally binding by the Treaty of Lisbon in 2009. Article 21 of the Charter (2012/C 326/02)⁵ explicitly prohibits all forms of discrimination, age discrimination included.
- *The Treaty on European Union*⁶ which, together with the Charter of Fundamental Rights, lays the ground to implement the policies and regulations aimed at preventing discrimination by age and ensuring active and healthy aging. In particular, Article 19 of the Treaty on the Functioning of the EU prohibits any discrimination and refers to appropriate actions to combat discrimination on several grounds, including age.
- *Directive (2000/78/EC)*⁷, establishing the general framework for equal treatment in employment and occupation, adopts an intersectional approach to prohibiting all discrimination, including discrimination based on age.

³ WHO, *Global report on ageism*, 2021: <https://www.who.int/teams/social-determinants-of-health/demographic-change-and-healthy-ageing/combating-ageism/global-report-on-ageism>

⁴ ILO, *Equality at work: Tackling the challenges*, 2007, <https://www.ilo.org/publications/equality-work-tackling-challenges-global-report-under-follow-ilo-0>

⁵ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:12012P/TXT> The Charter of Fundamental Rights of the European Union prohibits all forms of discrimination, including discrimination by racial and ethnic origin, religion, disability, age and sexual orientation.

⁶ <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:12012E/TXT>

⁷ *Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation*, <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32000L0078> The Directive, in addition to equal treatment at work between men and women, focuses in Articles 10, 11 and 12 on the prohibition of direct and indirect discrimination at work based on religion or belief, racial and ethnic origin, disability, age or sexual orientation.

The directive requires Member States to adopt measures to eliminate all forms of (direct or indirect) discrimination as regards access to employment, vocational promotion and training, working conditions and pay.

- *Directive 2006/54/EC* on gender equality and employment. The directive mainly refers to gender discrimination and contains cross-sectional references to ageism, especially in work settings. The directive guarantees equal opportunities for men and women in employment and requires that there be no direct or indirect discrimination as regards to pay, access to employment and career progression.
- In July 2008, the European Commission proposed another *directive*⁸ on the implementation of the principle of equal treatment between persons irrespective of age (among the various discrimination grounds cited) by prohibiting discrimination in the areas of social protection, education and access to goods and services. In 2009, the European Parliament approved this directive.

Ageism affects both older and younger workers. For what concerns the latter, the need for specific policies is also addressed by the Council of Europe in its *2024-2027 priorities of the Council of Europe youth sector*⁹. Alongside strategic priorities on education, democratic participation, skills development for the labour market, the document also covers discrimination, with an emphasis on “multiple discrimination and intersectionality (including race, ethnicity, gender equality, sexual orientation, gender identity and disability)”. The need to foster participation at all levels, from institutions to civil society and working contexts, is highlighted as a way to build more inclusive societies: “Youth workers and young people have gained knowledge and skills to work on peacebuilding and intercultural dialogue to prevent and combat discrimination, different forms of oppression, exclusion, and violent extremism”.

Among the instruments to combat age-related discrimination of younger persons, the EU has adopted a *Youth Strategy (2019-2027)*¹⁰ aiming at improving social inclusion and employment for the youth. The plan adopts an intersectional approach and includes *measures to combat discrimination* linked to:

- *Gender: Gender-based discrimination still affects many young people, especially young women. Equal opportunities and access to rights need to be ensured for young people of all genders including non-binary and LGBTQI+ young people;*
- *Employment: Young people are suffering from high youth unemployment, precarious and exploitative working conditions as well as discrimination in the labour market and the workplace;*
- *Social rights: One third of young people in Europe are at risk of poverty and social exclusion. Many do not have access to their social rights. Many continue to face multiple discrimination, experience prejudice and hate crimes. New migratory phenomena brought several social and inclusion challenges.*

In January 2021, the European Commission published *The Green Paper on Ageing. Fostering solidarity and responsibility between generations*¹¹. The Green Paper on Ageing opens a wide debate on the impact of this trend for citizens, whatever their age, and for society as a whole.

⁸ *Proposal for a Council Directive on implementing the principle of equal treatment between persons irrespective of religion or belief, disability, age or sexual orientation* {SEC(2008) 2180} {SEC(2008) 2181} <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52008PC0426>

⁹ [https://www.coe.int/en/web/youth/priorities#%22264978127%22:\[2\]}](https://www.coe.int/en/web/youth/priorities#%22264978127%22:[2]})

¹⁰ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:C:2018:456:FULL>

¹¹ https://commission.europa.eu/system/files/2021-06/green_paper_ageing_2021_en.pdf

It raises questions that span across the life-cycle from the formative years, to working age, to retirement, and stages of growing needs¹². The green paper discusses different forms of age discrimination, in particular the difficulties experienced by older workers in accessing the labour market, accessing training, coming to terms with employment transition processes and with the type of tasks they are assigned to, which may in some cases not be adequate for (or may not have been adapted to) to the needs and possibilities of workers of different ages.

Several studies and researches conducted by various European agencies emphasise the importance of adopting policies and instruments that take into account demographic changes and their implications on employment and working conditions¹³.

3. Trade unions

Trade union programmes at the European level emphasizes the fight against ageism and the protection of workers' rights, regardless of their age. At the meeting of the ETUC Executive Committee on 5-6 October 2021¹⁴, a resolution on the *Action Plan for the implementation of the European Pillar of Social Rights* was adopted, affirming the principle of "Ageing with dignity". The resolution promotes "a rights-based approach to social protection," calling for the public dimension of social protection systems and the need for action against discrimination and for social equality. The focus regards an "integrated and comprehensive approach to pension policy", which includes: "effectiveness of pensions across all ages", "sustainability of pensions on the basis of more and better jobs for the working age population", "integrated health and long-term care and a more inclusive 'right to care'", "the role of minimum guaranteed income to prevent poverty in old age", "fairness and sustainability in defining statutory retirement age".

The claim for a "social protection system that safeguards peoples' right to ageing in dignity" is laid out in ETUC Action Programme 2023-2027¹⁵. The emphasis is placed on rights, access to care services, intergenerational relationships: "Reinforce the narrative of Dignity of Ageing based on a comprehensive approach to welfare rights, including minimum dignifying safety nets, amongst other measures adequate minimum income, and long term care for all ages and on the intergenerational solidarity principle".

The specific issue of the pension system is covered by several items of the programme: "fair and people-centred retirement age, deletion of gender pension gap, pension income has to be adequate, income- and work-related, with the guarantee of adequate minimum pensions for all generations indexation of pensions according to raise of inflation and cost of life, income-related pensions and adequate minimum pensions above poverty protection fully in line with the principles of universal coverage, adequacy effectiveness".

¹² <https://op.europa.eu/en/publication-detail/-/publication/ce2ab168-7f23-11ec-8c40-01aa75ed71a1>

¹³ Cedefop, Eurofound, European Agency for Safety and Health at Work and European Institute for Gender Equality, *Towards age-friendly work in Europe – A life-course perspective on work and ageing from EU agencies – Report*, Publications Office, 2017, <https://op.europa.eu/en/publication-detail/-/publication/17130fbc-66ad-11e7-b2f2-01aa75ed71a1/language-en>

¹⁴ <https://www.etuc.org/en/document/etuc-resolution-implementing-epsr-ageing-dignity>

¹⁵ *ETUC Action Programme 2023-2027. Together for a Fair deal for Workers*, adopted by the ETUC 15th Statutory Congress (Berlin, 23-26 May 2023), <https://www.etuc.org/en/document/etuc-action-programme-2023-2027>

FERPA (European Federation of Retired and Elderly People) also states “the right to decent pensions”, underlining the importance of combating “poverty among the elderly, particularly women, who have a longer life expectancy than men and who often find themselves on their own at the end of their lives, having to live on a single income, the amount of which has been reduced by a fragmented working life”¹⁶.

For what concerns the rights and opportunities for the youth, the ETUC supports the need to expand the social protection of NEETs (Not in Education, Employment or Training), promote equal treatment of workers, abolish unpaid internships and insecure contracts “as part of a broader ETUC programme for inter-generational solidarity and young workers’ rights”. In a recent document adopted in June 2024, the ETUC expresses an opinion on the European Commission’s proposed Traineeship Package, recalling: “the need for respect and active promotion of collective bargaining and the non-regression clause that guarantees that this Directive cannot (1) lower the existing level of protection, (2) lead to the introduction of any new non-standard forms of employment (precarious work and new forms of contract) at the national level, (3) establish a third (new) category of workers”¹⁷.

The issue of youth participation is discussed in detail by the ETUC Programme 2023-2027 in its section on *Organising and workers engagement*: “Young people need to be an active part of trade union leadership, decision-making bodies and collective bargaining at European, national and sectoral levels”. The actions to be promoted include: strengthening the presence of young persons in the union’s governing bodies, capacity building programmes for young trade unionists, increase trade union membership among younger workers. As regards trade union practices (policies, campaigns), the ETUC commits to adopting an inclusive and ad hoc approach when it comes to the youth (a “generation test”).

The continuing diversity of treatment and age discrimination against younger workers is a topical issue, especially in the context of the debate that has sparked in Europe following the recent minimum wage directive. The ETUC has argued for the need to overcome the differences existing at national legislation level: 8 EU member states currently allow sub-minimum rates of pay for young people, allowing employers to pay young people up to 70% less than the statutory minimum wage¹⁸.

This aspect and its consequences are also tackled in the documents issued by the EESC as a result of discussion between the social partners. In a recent opinion¹⁹, the EESC emphasizes the lack of a specific perspective of European institutions on the issue of youth employment, stating that “differential rules for young people regarding unemployment benefits and assistance payments have the potential to shape young people’s labour market situation and impact on their ability to exercise their rights to free movement in the EU”.

¹⁶ FERPA Manifesto. *The right for pensioners and the elderly to live with dignity*, <https://ferpa.org/news/ferpas-manifesto/>

¹⁷ *Traineeship Package*. Adopted at the Executive Committee Meeting of 25-26 June 2024, <https://www.etuc.org/en/document/traineeship-package>

¹⁸ <https://www.etuc.org/en/pressrelease/eu-must-follow-uk-action-against-youth-pay-discrimination>

¹⁹ The equal treatment of young people in the labour market: <https://www.eesc.europa.eu/en/our-work/opinions-information-reports/opinions/equal-treatment-young-people-labour-market>

4. Let's start thinking about... ageism and intersectionality

The fight against ageism does not play a prominent role in legislation and in the institutional agenda, compared to other conditions of discrimination (sex, race, religion, disability, etc.), although age is widely cited as an intersectional element in the initiatives, strategies and studies of various European structures and agencies. Civil society organisations and advocacy groups denounce nevertheless the lack of an organic strategy.

In line with the EU's objective to build a 'Union of Equality', we call on the Commission to ensure that any follow-up action on ageing is based on equality and human rights and uses all the available EU policy instruments and processes to mainstream ageing and advance equality and human rights at all ages. To achieve this, we suggest that the European Commission elaborates an 'Age Equality Strategy' which will provide both the necessary conceptual framework to mainstream ageing in all EU action and also include targeted policy options for the way forward. In this document, we outline key elements of such proposed 'Age Equality Strategy', which includes proposals of actions to challenge age discrimination and age stereotypes, achieve equal participation in society, improve equal access to employment, enforce the right to adequate income, foster access to health and long-term care, improve the mainstreaming of ageing across EU policies and initiatives, and equally promote human rights for all ages at international level.²⁰

When ageism is dealt with, it is often mistakenly thought to apply only to older individuals ("ageism" is essentially considered a synonym of discrimination against older people). Many studies and researches conducted at European and international level on the topic of discrimination (ILGA Europe, Dublin Foundation, Cedefop, UN²¹) show that older people do not form a homogeneous group and emphasize the cross-sectional aspect of the discrimination they may suffer, starting with the intersection between age and gender discrimination.

Older women are particularly affected by intersectional discrimination in the labour market. Indeed, the gender gap for people between 55 and 64 years old is the highest of all age groups. [...] The pay gap between men and women, the lack of autonomy granted to women with regard to the family, the absence of adequate support to combat systemic sexism and gender bias, and the fact that the vast majority of women have to reduce their working hours because they are responsible for informal care, are just a few examples of the way discrimination against women manifest itself on the labour market.

²⁰ Age Platform Europe Towards an EU Age Equality Strategy, 2021, https://www.age-platform.eu/sites/default/files/AgeEqualityStrategy_FINAL.pdf

²¹ "Ageism arises when age is used to categorize and divide people in ways that lead to harm, disadvantage and injustice and erode solidarity across generations.", WHO, *Global Report on Ageism*, 2021, p. 2; see also Cedefop, Eurofound, European Agency for Safety and Health at Work and European Institute for Gender Equality, *Towards age-friendly work in Europe – A life-course perspective on work and ageing from EU agencies – Report*, Publications Office, 2017, <https://op.europa.eu/en/publication-detail/-/publication/17130fbc-66ad-11e7-b2f2-01aa75ed71a1/language-en>

Employment-related policies need to focus on the specific obstacles faced by women throughout their lives, to better address the difficulties encountered in the labour market in old age.²²

Safety and well-being in social and personal relationships can be put at risk when prejudices against older people intersect clear discrimination or bias in laws, administrative rules or employment contracts, as in the case of LGBTQI+ persons. As explained in the joint policy paper from AGE Platform Europe and ILGA-Europe, untitled *Equality for older lesbian, gay, bisexual, trans and intersex people in Europe*:

A major source of insecurity for older people in same-sex couples results from the lack of legal recognition of their relationships, exemplified by the denial of entitlement to inheritance of property, tax inequality and lower or denied entitlement to pensions compared to their heterosexual counterparts. It is also the case in the labour market where, for instance, same-sex couples are not allowed to access employment benefits for married couples.²³

Discriminations risk to be overshadowed when the public representation of a social group presents a homogeneous image of it, or one characterised by a main trait. For example, in the case of migrants, several European countries are experiencing a transition toward immigration of all ages, with older migrant workers and pensioners carrying specific social needs and risks: access to social protection, pensions and health care, intergenerational support (family reunification), with relevant policy consequences in the field of work (training, education and lifelong learning, health and safety at work, active labour market policies)²⁴.

²² United Nations – Department of Economic and Social Affairs, UN Human Rights special Procedures, UN Women, *Advocacy Brief. Older Women: Inequality at the Intersection of Age and Gender*, <https://www.un.org/development/desa/ageing/wp-content/uploads/sites/24/2022/03/UN-Advocacy-Brief-Older-Women.pdf>

²³ <https://www.ilga-europe.org/files/uploads/2022/06/Equality-older-LGBTI-people-Europe.pdf>

²⁴ Fondazione Giuseppe Di Vittorio, *Gli stranieri maturi e anziani. Demografia, lavoro e bisogni sociali nel cambiamento delle migrazioni in Italia*, https://www.fondazionedivittorio.it/sites/default/files/content-attachment/Stranieri%20e%20anziani%20in%20Italia_FD.V-WP-1-2023.pdf