

Background document for Hearing “Unblocking the Anti-Discrimination Directive” on age discrimination in access to financial services

Age discrimination in the EU legal order

While the focus of EU action in the field of non-discrimination for many years was on preventing discrimination on the grounds of nationality and gender, with the Amsterdam Treaty in 1997 the EU was given for the first time competence for combating discrimination based on sex, racial or ethnic origin, religion or belief, age or sexual orientation. Ever since the EU has concrete powers for positive action in the area of non-discrimination but unanimity among the Member States is necessary.

Most relevant provisions of the EU Treaties (TEU and TFEU) for combating discrimination
<ul style="list-style-type: none"> • <u>Social scope of the EU (Art. 3§3 TEU)</u>: The Union shall combat social exclusion and discrimination, and shall promote social justice and protection, equality between women and men, solidarity between generations and protection of the rights of the child.
<ul style="list-style-type: none"> • <u>Fundamental EU values (Art. 2 TEU)</u>: The Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities.
<ul style="list-style-type: none"> • <u>EU competences on anti-discrimination (Art. 10 TFEU)</u> : In defining and implementing its policies and activities, the Union shall aim to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation.
<ul style="list-style-type: none"> • <u>Council procedure for action on equality (Art.19§1TFEU)</u>: The Council, acting unanimously in accordance with a special legislative procedure and after obtaining the consent of the European Parliament, may take appropriate action to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation.

The Charter of Fundamental Rights of the EU proclaims a number of rights relevant to older people such as the rights to non-discrimination, social security, health care and education. Article 21 (‘non-discrimination’) and Article 25 (‘the rights of the elderly’) are especially important for older people.

The Employment Equality Directive¹ is of key importance for all older people and is a crucial step in combating age discrimination. This directive sets out a general framework for combating discrimination on the grounds of religion or belief, disability, age or sexual orientation but the protection is limited to the fields of employment and occupation.

¹ Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment

Following lobbying action from European NGOs to convince the European institutions that more action is needed at EU level to combat discrimination, the European Commission explored the feasibility of extending legislation beyond employment and proposed a Draft directive to combat discrimination on the ground of age, disability, religion and sexual orientation outside employment². The Commission announced this as an outcome of the 2007 European Year of Equal Opportunities for All.

This draft directive covers equal access to goods and services and is a major step forward in achieving a European Union free of discrimination. This proposal is still under discussion by Member States in the Council of Ministers and as unanimity is required even a single country can block the adoption of the draft directive.

Certain States offer the same level of protection for all grounds of discrimination in different areas of life, thus going beyond the requirements of the existing EU legislation and have given competence to equality bodies in those areas, but the level of protection varies between Member States, which is why a directive providing for a minimum coherent level of protection is needed.

Identification of issues at stake in the field of financial services

Thanks to AGE members, we have a growing collection of examples that demonstrate that some age limits applied in financial services are unfounded and we use them to explain why these limits should be forbidden.

Between January and March 2011 AGE gathered input from its anti-discrimination experts and Council members. We received a very large number of responses sometimes gathered through mystery shopping exercise, when AGE members went in person to banks and insurance companies to 'test' reactions when asking for a particular financial product. This field research was supplemented with internet-based findings and cold calling of insurance companies and banks. Both approaches have yielded useful results which confirm that age discrimination is a problem, in particular regarding travel insurance, complementary health insurance, mortgages and loans and needs to be addressed by industry and banks. This comprehensive mapping exercise enables us to demonstrate just how widespread age discrimination is in these areas but also to bring visibility to good practice examples. Today we have comprehensive information in 23 Member States (examples dated from March 2011).

AGE has identified a number of products where upper age limits or denial, on account of the client's age, to provide a quote for some essential financial products is a direct form of discrimination on the ground of age. Moreover, indirect discriminatory conditions such as sharp and disproportionate increases in premiums for people above a certain age, downgraded access to alternative products, reduced coverage, etc, have a negative impact on older people's access to basic services.

in employment and occupation. The text is available [online](#).

² COM(2008) 426 final, Proposal for a Council Directive on implementing the principle of equal treatment between persons irrespective of religion or belief, disability, age or sexual orientation :

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52008PC0426:EN:NOT>

Barriers to free movement within the EU faced by older citizens

In some Member States insurance companies deny access or charge excessive premiums to older citizens wishing to buy travel insurance to travel to other Member States. When asked to justify these differences of treatment, insurers claim that older people are at a higher risk of needing emergency medical treatment when travelling abroad compared to younger age groups. Within the European Union however, citizens are free to travel to other Member States and their health costs, if they need emergency medical care when visiting another Member State, are covered through the coordination of statutory health insurance systems between Member States by the country where they are insured.³ It is therefore unjustified to claim that older people constitute a higher risk for insurance companies when they travel within the European Union. Examples from certain Member States where the same low fee is applied to all age groups, show that alternative approaches to risk management are possible and at the same time affordable for the insurer. In this example, the savings made by not undertaking individual risk assessments made it possible for the insurance company to offer one single cheap flat rate to all, regardless of their age or health condition.

AGE proposes the development of an intra-EU travel insurance product without age limits using the same tariff as for other age groups (as health-related costs are already covered by the coordination of EU social protection systems) which would also be an interesting market for insurers given that due to the ageing population, older people are a growing section of the customers of insurance companies and there is a real potential for a silver economy in this field.

Examples of age limits in travel insurance

- Generarli-La Estrella (Spain): Travel insurance is not available for new subscribers over the age of 65
- Prudential (UK): No travel insurance is provided beyond the age of 70 including to former employees who draw a company pension
- Direct Ireland (Ireland): Excess fee of €85 for cancelation/curtailment doubles to €170 for people aged 66 or over
- Wander (UK): No travel insurance available to people aged 60+
- Axa Biztosító (Hungary): Surcharges of 100% are applied to those aged 65+
- CORIS (Slovenia): Subscribers over 70 have to sign a special contract and pay higher charges

Example of age differentiated premiums in intra-EU travel insurance

- AVIVA (Ireland): Standard travel insurance only available up to 64 years. Holiday travel insurance more than doubles in cost at 65+. Travel insurance cover stops at 74 years.

³Regulations EC 883/2004 and EC 987/2009 which update Regulations CEE 1408/71 and 574/72.

Up to 5/6 days: standard price €15

- 65+ standard price €31

Up to 10 days: standard price €17: 40

- 65+ standard price €40

Up to 17 days: standard price €20:44

- 65+ standard price €44

Good practice examples

- Aktia (Finland): No age limit
- Marks and Spencer Money (UK): No age limit for a single trip

Barriers to access a satisfactory level of health care

Upper age limits, downgraded products and prohibitive premiums constitute barriers preventing older citizens from accessing quality and affordable healthcare which runs counter to the commitment that all EU Member States took within the Open Method of Coordination to ensure universal access to quality and affordable healthcare.

Moreover, as Member States seek new models to finance their health care systems, transferring part of their services or responsibilities to the private sector, complementary health insurance is gradually becoming an essential component for affordable hospitalisation and medical care. In fact this implies that the holding of a complementary health insurance is becoming indispensable for all to complement the basic care covered by the public system. therefore AGE is particularly concerned that age limits to join such schemes deny older people from a satisfactory level of health care. Given the ageing of our population, this means that a growing proportion of our population will be ineligible for any but the most perfunctory level of healthcare. For example, in the Netherlands, quality care, above the very basic care, that was once provided as part of the state health care system is increasingly being made available in specific packages for which the patient has to purchase insurance and where some age limits may apply. Where does this leave older people who - like anyone else - need to provide for the possibility that they may need health care treatment yet are barred from purchasing complementary health packages on account of their age?

These good practice examples provided below prove that it is possible to provide complementary health insurance without age limits. Quite apart from the assurance this provides to older people that they will be able to receive the health care they need, it also makes good sense from a business perspective since – with the ageing of our population – there will a growing market and demand for such health insurance.

Examples of age limits to join complementary health insurance schemes

- Atlas healthcare (Malta): Cover is not available to those over 59.
- Health Insurance Fund B (Germany): Maximum age for cover is 60.
- Grawe Insurance (Romania): Maximum age for the insured person is 75 years.
- IF (Finland): health care insurance is issued to people between ages 18-59. It changes automatically to accident insurance at 65.

Examples of (relative) good practice in complementary health insurance

- Zaverovalnica Vzajemna (Slovenia): No age limits.
- Caser Salud Integral (Spain): Maximum age to join is 64 but there are no age limits to remain as a subscriber.
- Patient Choice 'Access Hospital Treatment Plan Single' (UK): Provides cover for people aged 90.

Barriers to access mortgage and loans

In almost all countries, banks impose age limits to access loans and these are usually set at the official retirement age. This approach is also used by many retailers who offer customers the possibility to buy and pay for goods and services by installments. Such age limits make it impossible for older people to buy a house or even household appliances on credit. This applies also to "bridge loans" that people might need for example to move from their house or apartment to a smaller more accessible apartment. For instance, in the Czech Republic and Poland, large social housing blocks are being sold to private parties. Tenants can buy them at favorable price. But age limits in mortgages make it very difficult for people aged 55+ to buy their flat, making it necessary to rely on relatives to purchase or maintain their houses, or to pay very high rents in the private sector. As a result, age limits may contribute to increasing poverty rates among older people. Meanwhile, under similar considerations (assumed lack of solvency) people above a certain age are often denied access to credit facilities or special rates and conditions linked to using those facilities.

Inevitably, refusing access to credit solely based on the age of the person, means that solvent customers risk to be excluded from access to loans and mortgages, having a huge impact not only on their lives but also on the market in general.

Some examples indicated below clearly show that age limits are not justified since older people often own property that may be used as security for the loan. This capital represents an important way to enhance their income and it can be used as a basis to measure the solvency of the senior customer.

Examples of age limits in access to mortgages and loans

- Česká spořitelna (Czech Republic): Maximum age to hold a mortgage is 67.
- Intesa Sanpaolo Bank (Romania): Maximum age to hold a mortgage is 70 years and the maximum age to hold a personal loan is 65.
- SEB (Lithuania): No age restrictions to obtain a credit card but there is a minimum income requirement (1150 lita/ month). Most older people fall below this threshold.

Specific case studies in barriers to financial products

- Société Générale (France): An AGE member of 72 could not obtain a short-term loan (8 years) to pay for an apartment. It was refused because the bank would not provide the life insurance contract mandatory to taking out a loan.
- Bank Nordic (Denmark): Loans for only 10 years are given to older people. If the person deceases within that time, the amount of the loan returns to the bank.

Examples of good practice in access to mortgages and loans

- Svenska Handelsbanken SHB, SE bank, Nordea (Sweden): Age is not an obstacle. Credit cards, bank loans and mortgages are decided on criteria of how credit worthy the applicant is. Following much discussion in the press, in August 2008 all banks voluntarily removed this discriminatory practice. Since then loans are granted on an individual test of capacity to re-pay.
- Malta: Age is no barrier to taking out a loan. Each case is decided on its own merits based on the credit worthiness of the applicant.

Conclusions

- A growing number of Member States see an added value in providing insurance and banking products without age limits.
- With population ageing, new approaches to insurance are needed. More people than ever are living longer, healthier and more active lives. Refusing them products sends harmful ageist message and places unacceptable restrictions on people's lives.
- Continuing to discriminate against our ageing population is also bad for business. Getting rid of age barriers will mean less administrative costs for industry and a larger market (growing number of older consumers). In the context of recovery from the crisis, it is in the interests of our economies to get rid of barriers to encouraging tourism and consumption.
- Upper age limits should be replaced by other risk controlling mechanisms.

About AGE

AGE Platform Europe is a European network of more than 160 organizations of and for people aged 50+ representing directly over 28 million older people across in Europe. AGE aims at voicing and promoting the interests of the 150 million inhabitants aged 50+ in the European Union and at raising awareness of the issues that concern them most.

For more information you may contact:

Anne-Sophie PARENT, Secretary General

annesophie.parent@age-platform.eu

Nena GEORGANTZI, Legal and Research Officer

Nena.georgantzi@age-platform.eu

AGE's work in combating discrimination beyond the field of employment

AGE has long been calling for EU action to tackle age limits in financial products and thanks to examples gathered from AGE members demonstrating obstacles to access to health, travel, car and life insurance as well as mortgages, the European Commission has set up a dialogue group which brings together the insurance and banking sectors and civil society organisations like AGE to discuss barriers to access to insurance and financial products. In parallel, AGE is working with the European anti-discrimination networks to ensure that the draft directive remains on the EU agenda and that during negotiations at Council level, the proposal is improved with regard to the

protection it will bring to older people. To strengthen our case we are constantly trying to enrich our database of good and bad practice examples. Such examples can be found in our following documents.

AGE papers on barriers that older people face in access to financial services

- 2011, AGE demonstrates age limits in certain insurance products
<http://www.age-platform.eu/en/age-policy-work/anti-discrimination/lastest-news/1252-age-demonstrates-age-limits-in-certain-insurance-products>
- 2011, AGE Platform Europe response to EC consultation on the Single Market Act
<http://age-platform.eu/en/age-policy-work/accessibility/lastest-news/1238-age-platform-europe-response-to-ec-consultation-on-the-single-market-act>
- 2011, AGE response to EC consultation on Collective Redress
http://www.age-platform.eu/images/stories/FINAL_AGE_response_Collective_Redress_20_04_11.pdf
- 2008, AGE calls for the door to remain open on a horizontal initiative to combat discrimination outside employment ,
- http://www.age-platform.eu/images/stories/AGE_position_on_future_discrimination_action_-_FINAL.pdf
- 2008, AGE position on financial inclusion: the need to remove age limits in access to financial products,
- http://www.age-platform.eu/images/stories/AGE_position_on_financial_inclusion.pdf
- 2008, AGE response to Commission proposal for a draft directive on combating age discrimination in access to goods and services http://www.age-platform.eu/images/stories/AGE_response_to_directive_on_non-discrimination_final.pdf with annex I [http://www.age-platform.eu/images/stories/Annex I - Examples of preferential treatment final.pdf](http://www.age-platform.eu/images/stories/Annex_I_-_Examples_of_preferential_treatment_final.pdf) and annex II [http://www.age-platform.eu/images/stories/Annex II - Examples of direct and indirect discrimination final.pdf](http://www.age-platform.eu/images/stories/Annex_II_-_Examples_of_direct_and_indirect_discrimination_final.pdf)
- 2007, Building a case for more action at EU level to combat age discrimination in access to goods and services
[http://www.age-platform.eu/images/stories/Building the case for more action to combat age discrimination in access to GFS October 2007.pdf](http://www.age-platform.eu/images/stories/Building_the_case_for_more_action_to_combat_age_discrimination_in_access_to_GFS_October_2007.pdf)
- 2006 AGE's shadow directive on non-discrimination in access to goods and services
[http://www.age-platform.eu/images/stories/Proposal for draft directive - adopted by AGE Council June 2007 as working document.pdf](http://www.age-platform.eu/images/stories/Proposal_for_draft_directive_-_adopted_by_AGE_Council_June_2007_as_working_document.pdf) and explanatory memorandum , [http://www.age-platform.eu/images/stories/Explanatory memorandum.pdf](http://www.age-platform.eu/images/stories/Explanatory_memorandum.pdf)
- 2004, AGE barriers: older people's experience of discrimination in access to goods, services and facilities
[http://www.age-platform.eu/images/stories/AGE doc goods and services 2 Dec 2004.pdf](http://www.age-platform.eu/images/stories/AGE_doc_goods_and_services_2_Dec_2004.pdf)