



The European Older People's Platform
La Plate-forme européenne des Personnes âgées

Building the case for more action at European level
to combat age discrimination in access to goods,
facilities and services

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I. Introduction

According to our members' feedback, age discrimination is pervasive in many areas of society: in employment and income levels, in access to health, education and other services, in access to participation in policy making and civil dialogue and in the allocation of resources and facilities. It exists in all EU Member States in various forms and is often not recognised.

For many older people, age discrimination is experienced as one of a group of disadvantages. This 'multiple discrimination' affects older women, older people from ethnic minority communities, older gays and lesbians and older people with disabilities.

AGE welcomed the EU Framework Directive on Employment, Occupation and Training (2000/78/EC) adopted in 2000 to combat discrimination in these specific areas. However the feedback we have gathered from our member organisations across the European Union demonstrates that more needs to be done to address the various forms of discrimination faced by large groups of citizens, in particular older people, on the ground of their age in other important areas of life.

AGE has also welcomed the recently completed Mapping Study¹ on existing national legislative measures - and their impact in tackling discrimination outside the field of employment and occupation on the grounds of sex, religion or belief, disability, age and sexual orientation. This study provides a good overview of the wide differences in the level of protection against discrimination that exist between Member States.

Our members' experience shows that discrimination on the ground of age has an impact that goes well beyond employment and affects not only the individual but society at large. Ageism is so embedded in our culture that it is perceived as acceptable by the public in general to use age in a negative way in the media, in policy use and in everyday decision making.

Evidence has demonstrated that it creates significant costs for society as a whole i.e. in terms of the lost productivity of older workers and in the long term costs of lost opportunities for older people who are excluded from part of the economic and social activity. The issues at stake range beyond those such as pensions and health care expenditure, older worker employment rates and old-age dependency ratios. Whilst these are important areas for consideration - and key areas on which AGE lobbies - other changes are necessary to the economic, social and political structures to ensure equal opportunities for all, including for older people in accessing fundamental goods, facilities and services such as insurance products, healthcare and other services of general interest.

¹ Comparative analysis on national measures to combat discrimination outside employment and occupation (December 2006); Comparative analysis of existing impact assessments of anti-discrimination legislation (December 2006). <http://www.migpolgroup.com/documents/3607.html>

We do not believe that we can achieve the European Union economic and social cohesion objectives as long as the fastest growing segment of our population continues to face barriers preventing them from participating fully in its' economic and social life.

In the context of demographic change, policy developments in diverse areas such as employment, pensions, social inclusion, health, transport, urban development, housing, research, education and citizenship, etc. need to be better evaluated and co-ordinated to both develop an accurate understanding of how ageist attitudes impact on the daily lives of older citizens and support the right policy responses promoting inter-generational fairness and solidarity.

At the same time, we need to recognise that age discrimination has an element of complexity within it. It exists within the dynamic context of the human life course which is characterised by changing needs and aspirations for individuals as they age. Addressing age discrimination requires a comprehensive and carefully constructed legal framework, accompanied by measures to ensure proper implementation and actions to raise public awareness. The challenge is to eliminate discrimination which is based on unnecessary and inappropriate stereotypes, whilst allowing the different needs and aspirations of European citizens to be met at different stages of their lives.

By publishing this document which sets out detailed examples of some of the main areas where older people face discrimination, at a time when the European Union is marking the 2007 European Year of Equal Opportunities for All, AGE aims to demonstrate that more action is needed at European level to combat age discrimination in a much broader range of areas than those currently covered by EU legislation. Our objective is to promote non discriminatory approaches to specific fields where our members have identified pervasive direct and indirect age discrimination. We hope that this document, which supplements our previous report on this subject 'Age Barriers'² will provide useful input to the European Commission for the study which they plan to publish in 2007 on the feasibility of extending EU non discrimination legislation.

The evidence in this report has been gathered in close consultation with our members and experts and provides both detailed examples of unacceptable age discrimination as well as a few examples of good practice. It also raises the difficult issue of preferential treatments, goods and services that are made available to people in different age groups or age bands, generally youth and older people, and discusses when justification of these differences of treatment should be possible. We recognise that this debate is ongoing and needs to continue, but argue that this should not prevent the taking forward of initiatives to end clearly unjustified discrimination. Finally we set down recommendations that we would like to address to EU and national policy makers.

² http://www.age-platform.org/EN/IMG/AGE_doc_goods_and_services_2_Dec_2004-3.pdf

II. Building the case: evidence of age discrimination faced by older people in access to goods, facilities and services

Most cases reported by our members and experts relate to age limits imposed on access to insurance and other financial products, and in the field of healthcare. Beyond these specific areas, we also received many comments and complaints about unacceptable negative stereotyping of older people in images and language, and these extend to the attitude of both the media and amongst policy makers. A few other striking examples of age discrimination in other areas were reported by our members and these demonstrate how age is arbitrarily used to underpin assumptions about a client's health condition, financial position, ability to cope with new technologies, social skills and capacity to contribute and participate effectively in society.

We have set out a number of clear examples in these areas below and, as part of a wider initiative to address age discrimination beyond employment, we would like to see a comprehensive study undertaken to quantify the scale and impact of this phenomenon.

II.1 Insurance and other financial services

II.1.1 Travel insurance

In several EU Member States, older people report huge difficulties in purchasing travel insurance above a certain age. Age limits imposed by travel insurance companies not only vary between countries but between companies within the same country.

- **Irish example:** In Ireland, insurers³ impose very diverse conditions and age limits on older people wishing to purchase travel insurance. Higher fees are introduced at varying ages (65, 67, 75, 79) and other provisions are influenced by age including shorter contracts, the use of medical tests, and ages at which cover for travellers is refused.

The huge diversity of conditions imposed by Irish insurance companies for what can be considered an identical risk pool (i.e. potential older customers residing in Ireland) leads us to question the validity of age as a proxy to assess risk in travel insurance products. If age were a reliable proxy to assess risk in travel insurance, all insurance companies would reach the same conclusions for each age group and the use of age-based criteria to make a risk assessment of products would be similar. Since this not the case, one can seriously question the objectivity and justification of the use of age as a proxy by travel insurance companies.

³ See Annex 1: conditions imposed by 8 travel insurance companies in Ireland to older customers.
Table compiled by Age Action Ireland

We are particularly concerned about the existence of this apparent age discrimination in Ireland, as it is one of the few countries which have adopted comprehensive measures to combat discrimination on a wide range of grounds in fields outside employment, and within their legal framework exemptions are allowed in the field of insurance based on actuarial or statistical data. However, it is evident that the lack of clear guidelines on how actuarial and statistical data should be used to assess risk results in total incoherence in the conditions offered to older people and the exclusion of a growing number of customers when they reach a certain age.

- **Age and Mobility Project:** In 2005, with the support of the European ENEA programme, AGE organised a large exchange programme for senior citizens. More than 250 older people participated in visits organised by senior organisations in the 5 partner countries (Ireland, Germany, The Netherlands, Italy and Belgium). Each national partner organisation was asked to purchase travel insurance for their participants. Three partners replied that despite extensive research they were unable to find an insurance company willing to sell travel insurance to their group because the participants' age was over 50 and there was no upper age limit. This situation placed the overall project in jeopardy.

The situation was only resolved when AGE found that it was able to purchase travel insurance for all participants in the project through a company based in Belgium. The Belgian company sought to apply no age limits nor were medical tests requested and the same cheap flat rate was applied to all of the participants, as is the case for any customer buying travel insurance from that company. It was only through this facility that the project was able to proceed.

- **European Electoral Observers:** Another example of unjustified use of age as a proxy by travel insurance companies was recently highlighted by Claude Moraes, MEP (UK). In a question addressed to the European Commission, Mr Moraes asked *“why do the Commission's electoral observation missions prohibit observers over the age of 70 from participating? Is this not discriminatory, and does it fail to take into account the fact that many people over the age of 70 are rich in experience and would be ideal observers? Regardless of perhaps increased insurance costs, will the Commission agree to relax this policy, and choose observers on their skills and experience, rather than age?”*

The Commission answered: *“In the past, the Commission applied an age limit of 70 years to its EU Election Observation Missions (EOM) in line with restrictions of the insurance policy undertaken for EU Election Observation Missions. Upon the Commission's request, its insurance provider has agreed to relax its policy and the Commission has decided therefore to lift the age limit, introducing however - in line with the Council Decision 8728/99 - medical examinations required to become an*

election observer. {...} The Commission will therefore not use any age limit for the deployment of observers.”

The reaction of the Commission’s insurance provider shows very clearly that age was being used previously as an unjustified and unreliable proxy by the insurance company to assess the risk faced by EU observers, a common practice among insurers as previous examples show.

Other examples of discrimination in insurance products:

- Andrew, in his late 60s, was refused holiday insurance cover by several companies because of his age. He said: This gave the feeling of rejection as a human being. Eventually, one company accepted the risk at a very heavy premium but even then excluding certain destinations.
- A leading retailer offers annual multi-trip insurance cover only to travellers up to the age of 70. For those aged 66 and over, there is a premium loading of 100 per cent. In contrast, the premium loading for winter sports is 35 per cent. Frances, from Surrey, used to get family travel insurance cover for £50. She reported: As soon as my husband turned 65 it went up to £130. From one day to the other he’s no less fit!
- Robert, a GP aged 62, was turned down by thirteen income protection schemes in six months. He remarked: Only one insurance company would accept me, at a derogatory rate, which is an excuse for rejection.
- Tony had been a volunteer flying instructor with his local gliding club for over 30 years. On reaching 70, he could only continue giving full flying instruction by taking an expensive medical examination, based on rules which he believes are outdated as they fail to reflect current risk levels of cardio vascular problems. He remarked: As a very fit 72 year-old who does well over ten times the average amount of flying in a year, I am aggrieved that I cannot pass on my skills.

II.1.2 Age limits in car rental

In several Member States, our members reported that car rental companies⁴ refuse to rent a car to drivers above a certain age, usually the age of 70. These car rental companies argue that this is due to the age limits imposed by insurance companies. Here again, we question the validity of the use of age as the sole proxy to determine risks in car rental since many older people above these age limits are in possession of a valid driver licence, a valid car insurance and are driving everyday in their own countries. Statistics also show that older drivers are not responsible for more accidents compared to younger drivers.

These age limits are a clear example of age discrimination resulting from the pervasive ageist perception that at the age of 70 one is too old, disabled and

⁴ See Annex 2 : example of age limits imposed by Italian car rental company.

poor to be worth any value as a consumer except in the field of assistive technologies.

In the context of the European Union's enduring policy to create a single market, such attitudes constitute a barrier to the freedom of movement that everyone is entitled to in the EU and has the potential to impact negatively on trade in, for example, the tourism industry. As research in the UK has demonstrated, the over 50s currently represent over 40% of the leisure spending in the total UK economy, including a high level of expenditure on travel and tourism, and this is projected to rise by a further 23% over the period to 2043⁵. Research in France shows similar trends⁶ and demonstrates that fighting age discrimination in this sector could have an impact not only on individuals but on the wider development of Europe's economy.

If insurance and car rental companies were to fully analyse the structure of their markets, they would find out that a large number of older people in their seventies are healthy, active and would be happy to travel long distances by train or plane if they could rent a car upon arrival.

To access the huge market of senior citizens, insurance companies should develop more accurate tools than chronological age to assess the driving abilities of all customers, such as having a valid driving license and a valid car insurance contract as driver or co-driver.

II.1.3 Private health insurance

In most Member States, insurance companies use age as a proxy to determine the level of fees for private health insurance. AGE members do not intend to contest these practices when they are based on reliable actuarial data which is objective in its outcome.

We have observed, however, that this objectivity is open to question. In Belgium, the federal non-discrimination legislation forbids differences of treatment on the ground of age in all areas of life, including insurance products. However, the fees vary greatly between age groups and older citizens are often charged three to four times as much as younger people because the insurance companies argue that the risk of needing hospitalisation increases with age. The workings of the Belgian legislation proved useful when an insurance company (DKV) ⁷decided to increase the premiums by the following percentage depending on the age groups:

- Age 0 to 19: no increase;
- Age 20 to 39: increase by 8%;
- Age 40 to 59: increase by 16%;
- Above 60: increase by 24%.

⁵ Family spending unit/ONS/nVision cited in Ageing in the Countryside, Lowe and Speakman (eds.) – ACE Books 2006

⁶ <http://librapport.org/getpdf.php?iddocument=420>

⁷ See Annex 3 : DKV judgment

The company's approach was tested in court by Test Achat, a consumer organisation, and the judge concluded that the sharp rises in premiums for people aged 60+ and the lack of increase for the younger age group were discriminatory as these could not be objectively justified. The judge concluded that actual costs had risen equally for all age groups. The company was required to apply the same increase to all age groups.

This example demonstrates the value of legislation forbidding unjustified differences of treatment on the grounds of age in providing a framework to challenge the unjustified discrimination they face in accessing many basic services and products and to securing objectivity in decision-making around pricing.

Legislation which creates the notion of objectivity in the use of statistics and data, combined with clear guidelines as to what is objectively justified and what is not could both ensure that companies can assess risk effectively and help many older citizens like one 70 year old gentleman who contacted an AGE member in Germany, following his experiences trying to buy private health insurance. He was rejected by all companies he contacted by telephone. As he said, "I didn't even receive documents to fill out!".

II.1.4 Age limits to access loans: are these justified?

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.

For example, our Swedish member reported that an older lady was denied the right to pay for her spectacles in installments because she had no income from work, only her pension.

In Sweden again, up until recently older people were denied loans from their banks despite the fact that they may own valuable property which could be used as security for the loan. On the other hand, in other countries governments have recognised the value of this capital and the opportunity this presents for both older people to enhance their income and for business to develop commercial products, by adopting or proposing to adopt legislation to enable older people to access this capital through equity release or "reverse mortgage" products which enable property owners to use their home to secure an income in older age. Our Swedish member reported that thanks to the lobby of senior organizations, the age limits to accessing loans have been removed. This shows again that these age limits were not justified.

In Germany, the creditworthiness of senior citizens is reduced to a third of their monthly pension without any consultation on their assets and wealth, and age is the only criteria used. In Germany again, a loyal customer was refused residual debt insurance by a building association when he reached 65.

In the Netherlands, one of our members who wanted to buy a new refrigerator was offered a 10% reduction on the condition that he would agree to sign up for a new credit card. The gentleman, who is already in possession of a credit card, first declined the offer but was persuaded by the sales person who pointed out that the customer could simply use it to make the purchase and then destroy the card, so obtaining the 10% price reduction. The gentleman finally decided to take up the offer and was asked to complete a form. However, when he was asked to give his date of birth, he was told that unfortunately this offer was not available to retired people and he could not benefit from this special rebate offered as he was above retirement age.

AGE does not believe that the state retirement age is a relevant criterion in identifying the financial risks of an individual. We presume that it has been set by companies as they see it as an indicator of economic activity. However, even if being in employment or economic activity were a reliable indicator of income, we know, of course, that large proportions of the population in the two decades before retirement age are out of work - often because of age discrimination in the labour market, and we also know that a majority of people over 65 enjoy a good income and some of them continue to work after state retirement age. The use of the age 65 is not a reliable proxy for either economic activity or wealth and should therefore not be used as a method for allocating access to services.

II.1.5 Conclusion:

Insurers and financial institutions argue that age is an easy (and therefore cheap) way to evaluate risk and financial liability and choose to use it in decisions about access to services, either as an individual indicator or as part of a wider basket of indicators. However, as these examples have clearly shown, the use of age as a proxy is questionable and the impact on older people of these decisions can be quite unacceptable. In the context of our ageing population, such practices may have significant negative economic and social impacts.

In their decision, to remove age from the testing regime for all EU electoral observers in favour of a medical examination, the European Commission and their insurance company have acknowledged that there are far better ways to assess risk. They recognise that people may develop conditions at different ages which may make them unfit to fulfill that role under severe conditions, and that this more accurate form of risk assessment has benefits for both individuals and insurers. We do not believe that age is a valid proxy to assess risk and the example of the Belgian travel insurance company's flat rate for all also shows that alternative approaches to risk management could be available which need assessment. 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.

Denying pensioners the possibility to pay in installments is another clear example of indirect age discrimination faced by older people and is based on undue assumptions about older people's financial liability and health condition.

II.1.6 AGE Recommendations in the field of insurance and other financial products

Older people, as any other EU citizens, should be able to exercise their right to move freely in the EU. More and more older people want to travel for work, leisure, vocational, health or family reasons. The unjustified age limits imposed by insurers in travel insurance and car rental are creating undue barriers to the free movement of citizens and should be forbidden by EU legislation. Age limits imposed by banks and retailers to access loans and credit facilities are also not always justified and are in conflict with the right of all to enjoy equal opportunities.

Two UK based AGE members, Help the Aged (HtA) and Age Concern England (ACE) have been pursuing this issue with the Association of British Insurers (ABI), and the ABI have now formed a working party with the intention of producing their own policy paper soon in consultation with HtA and ACE. The example of the change of policy of the European Commission's insurer and the ABI example show that some insurers are aware that their policies are discriminatory against older people and are trying to find new approaches.

It is the view of AGE, that the social and economic impacts of age discrimination, and the impact on individuals, are important issues and will become more important as Europe ages. Whilst we recognise that insurers will want to differentiate their products and seek to appeal to different market segments as they seek to compete, we do not believe that decisions which may have the effect of excluding key and growing segments of the market should be left to each insurance company or group of insurers to decide in the context of their marketing, if they cannot be justified objectively. There is an obvious justification for taking action which differentiates on the ground of age to achieve social inclusion and consumer protection, in particular as regards access to potentially harmful goods (alcohol, tobacco, guns, etc. for children and minors). There is nevertheless an increasing recognition of the benefits of the economic engagement of older people in the silver economy and this needs to be nurtured and encouraged. Upper age limits in access to goods, facilities and services should therefore only be allowed if objectively justified.

There is an obvious added value in developing a clear definition of what can and cannot be considered an "objective justification" in the use of age as a proxy and we believe that this can only be achieved through an EU wide legal framework.

II.2 Access to healthcare:

II.2.1 Direct discrimination

Our members report pervasive age discrimination and rationing of the health resources devoted to older people. Whilst we acknowledge that the use of age can be useful and should be capable of justification in some public health circumstances, for example as a positive indicator of risk when identifying a whole population group for inoculation programmes such as rubella for young children, influenza vaccines for older people or prostate cancer screening for men above 50, we question the use of upper age limits in many cases as, for example, in those imposed on access to free breast cancer screening programmes in several countries. Research shows that the risk of developing breast cancer increases with age. Does it make sense therefore from a public health perspective to stop offering free screening to older women above a certain age?

In a study by Fairhead and Rothwell published in the *British Medical Journal* Professor John Young states that NHS (UK) underfunding has caused "endemic" ageism. According to the study, elderly patients are denied treatments for life-threatening illnesses, such as cancer and heart disease, that are readily offered to young people.

In Malta, in 2006 the Ombudsman was informed by senior organisations that the Health Division had decided to deny access to free cholesterol reducing drugs to people aged 75+. The Ombudsman told the Health Authorities that their policy was discriminatory and unacceptable. Following that action, the Ministry has re-evaluated its policy and has removed the unjustified upper age limit.

Other examples of age discrimination in access to healthcare:

Mammography - breast cancer. In Sweden there is an upper age limit at 74 because the value of mammography for older women has not been studied. However, the risk of breast cancer increases with age and breast cancer does not know of chronological age limits.

The same applies to screening for cervical cancer – it stops at 60 in Sweden but 40% of the cases turn up in women 60+ and are in a later stage than the ones diagnosed in younger women. They are thus more difficult to treat. Again - cancer does not take into account chronological age limits.

II.2.2 Indirect discrimination

In the UK, while all women have access to free breast cancer screening, only the group aged 50 to 70 receives reminders. According to the Breakthrough Breast Cancer charity, this self-referral system does not deliver and the fact that older women above 70 no longer receive reminders sends the wrong message that they are no longer at risk. This is a clear example of indirect

age discrimination whose effect is similar to an explicit age limit: women 70+ no longer request breast cancer screening despite the fact that they are more at risk of developing the disease than other age groups.

II.2.3 Conclusion

It is striking to note that most examples of age discrimination in access to healthcare reported by our members and experts come from countries which have been listed in the mapping study⁸ on existing national legislative measures as not having legal provisions forbidding discrimination in access to social protection and healthcare: Germany, Italy, Luxembourg, Malta, Netherlands, Sweden and UK.

This combination of evidence demonstrates clearly in our view that:

- When it does not yet exist, legislation is needed to protect citizens from age discrimination in access to healthcare;
- Legislation in that field is feasible without jeopardizing the financial sustainability of national health systems (the main reason invoked by national health authorities to justify differences of treatment on the ground of age);
- Legislation can be effective in protecting citizens from discrimination on the ground of age in access to health care, provided that it is combined with a range of other mechanisms to support awareness and promote an age-friendly culture.

II.2.4 AGE Recommendations in the field of healthcare

Since most Member States are undergoing reforms of their health systems, AGE members fear that ageism might become endemic if resources become scarce and no adequate legislation is in place to ensure that patients are treated according to their needs and the potential benefit they will draw from the treatment, within the limits of resources available, rather than according to their chronological age.

The EPSCO Council of February 2007 concluded that “More effective and efficient use of resources is an essential factor in rendering healthcare systems sustainable, without abandoning high quality standards, and ensuring adequate coverage of the whole population.” If Member States are committed to achieving an “adequate coverage of the whole population”, unjustified age limits in access to health care should be forbidden by EU legislation to ensure equal opportunities and access to good quality care for all, in accordance with Article 152 EC.

Article 152 EC shares powers between the Community and the Member States in the field of public health, and Art. 152(1) states that: “*Community*

⁸ Comparative analyses on national measures to combat discrimination outside employment and occupation. Mapping study on existing national legislative measures and their impact in tackling discrimination outside the field of employment and occupation on the grounds of sex, religion or belief, disability, age and sexual orientation, VT/2005/062

action, which shall complement national policies, shall be directed towards improving public health, preventing human illness and diseases, and obviating sources of danger to human health. Article 152 combined with Article 13 EC gives a clear role to the EU to ensure patient safety and a high level of health protection to all, regardless of their age.

II.3. Ageism in the media and among policy makers

According to our members, ageism is very common in the media everywhere in the EU and, as a result, in society and among policy-makers. The following examples show how ageist attitudes continue to prevail in many areas of life.

II.3.1 National level: French example

With the title "Are older drivers more dangerous?" a prevention campaign aimed at older people was launched recently by the General Council of Haute-Vienne (F). "This is the first time that the General Council of Haute-Vienne targets older people. This public is indeed not aware of their limitations to drive and the General Council has decided to target its campaign to this group."

The attitude of the General Council of Haute Vienne, a public administration, is discriminatory against a group of citizens on the ground of their age and is highly questionable, in particular since a few weeks earlier the cabinet of the French Minister of Transport had announced that: "the future European drivers' licence will not stigmatise any category of drivers, for example older people, whose careful behaviour on the road makes them twice less likely to be involved in accidents than other age groups; medical inability to drive depends more on the health condition of each individual than on their age."

II.3.2 Ageism in European campaigns and initiatives

AGE members expressed their concerns to Vice-President Wallström that most interactive events launched by the European Commission in key EU programmes are discriminatory against older people: for example, the Equality Summit and the closing conference of the European Year of Equal Opportunities for All both include a youth panel as the only interactive session where citizens can express their expectations toward the EU. This exclusive focus on young people excludes two-thirds of the population by not involving anyone aged 30+ from the debate.

The same ageist approach was adopted in the list of activities proposed to mark the 50th Anniversary of the signature of the Rome Treaties (Youth Package) where the only interactive event was a Youth Forum. The other activities (i.e. the Arts Package) were open to all, but they included only activities such as conferences, exhibitions and concerts where citizens have a passive role to play (they can attend but are not given the floor to express their views on the future of the EU despite the fact that people of all ages have an equal interest in the future of Europe).

Another example is the proposal for a European Year on Intercultural Dialogue which is also focusing on the youth, as if intercultural dialogue was only of concern to younger people.

In her response, Vice-President Wallström said: *"It is true that the commemorative events included in the "Youth Package" are aimed at the young. However, the "Youth Package" represents only a few among many initiatives, the majority of which are aimed at the general public, regardless of their age. As you rightly point out, the Arts Package is open to all, as are all the other events announced on our website (http://europa.eu/50/index_en.htm) like conferences, exhibitions, festivals, brochures and so on."*

These examples show that there is still a long way to go to change attitudes and mentalities among the public at large, the media and policy-makers to eradicate ageism and promote an approach which will foster solidarity between the generations rather than divide them.

Other striking examples of ageism:

- Stella, who is in her 80s, found that she did not have the right to buy her home because she was over 60 when she moved in. She has been a council tenant for 56 years.
- A research report on older volunteers quoted one woman who had been 'retired' from voluntary work following the arrival of a new manager who claimed that there was a legal cut-off point at 70. She said: You finish at Christmas...they didn't tell you why.... when you got to 70 there was a law that came out that you'd all got to retire.
- The BBC faced accusations of "ageism" from its own employees yesterday as a Daily Telegraph inquiry revealed mounting anger from local radio staff who claim they have been told to keep old people off the air. (Daily Telegraph)

II.3.3 Conclusion

AGE welcomes the efforts deployed to include the youth more in important debates such as on the future of Europe and we understand that communication tools need to be adapted to different audiences. However we do not understand why this should be done at the expense of other age groups and exclude two-thirds of the population from taking part in these important debates. What is the added value of dividing generations at a time when we need more than ever to work together to ensure a more sustainable future for all? We believe that there should be a mix of activities which seek to involve and value the contribution of all sections of Europe's population, which both identify and address their group interests, but also bring together the various segments of the population to build solidarity across cultures and generations. In our view, the fact that this has not been proposed reflects

attitudes which are based on the stereotypes about the youth and older people which are still prevalent in our cultures and societies.

II.3.4 Recommendation

Since both young and old people suffer from negative stereotypes about the nature and capability of individuals of specific ages and this results in age discrimination being embedded in many areas of life without people being aware that their attitude is discriminatory, AGE recommends that swift action is taken at EU level to combat age discrimination in communication, media and information.

II.4 Examples of age discrimination in other areas

II.4.1 Age discrimination in access to essential services

A 70 year old lady was recently refused a broadband contract by Carphone Warehouse (UK) and was told that she could only register if she came to the store with a younger member of her family. The Carphone Warehouse has provided guidance to staff not to sell broadband contracts to customers aged 70+ as they believe they will not understand the terms of the contract. This is happening at a time when all taxes, banking services and other day-to-day information refer to websites for further information. If not forbidden by law, such an attitude will continue to prevail and the digital divide between young and old will continue to increase.

II.4.2 Age discrimination preventing participation in political or academic life

In many countries, there are upper age limits to sitting on electoral committees, governmental agencies or university boards (usually 70). Chronological age is used rather than their skills and experience to decide on the ability of senior citizens to sit on such committees. Almost everywhere this is common practice and older people have no means to seek redress.

In Belgium, however, the broad non-discrimination legislation proved useful. On 5 October 2005 the Constitutional Court abolished two articles in the Flemish decree on the functioning of recognised religions. These articles stated that members on the Church Council must resign when they reach the age of 75. The Court abolished this article on the ground that it goes against the non-discrimination principle in the Belgian Constitution, which forbids age discrimination: *“By imposing an age limit in such an absolute way, a whole category of aged believers, who are becoming increasingly important for the religious community, are excluded from management of the goods of the community.”*

Despite a prevailing culture of ageism, the president of the Convention which was entrusted with the gigantic task of drafting a constitution for the European Union, Valéry Giscard d’Estaing, was 75 when he took up the job in 2001.

So, too old at 70 to sit on community electoral or university boards but still young enough to lead the group in charge of drafting a major EU treaty and,

indeed, as a result of the initiative of Claude Moraes MEP, still old enough to observe elections across the world! Where is the logic and is age such a relevant proxy to assess one's intellectual abilities?

III. Are preferential treatments in favour of younger and older people justified?

During our discussion with our membership and with external stakeholders, the following question was often raised: Would a directive combating age discrimination in access to goods, facilities and services result in putting into question the positive treatment that some age groups enjoy in access to certain goods and services such as lower fares in public transport, reduced entrance fees to theatres, cinemas and sports facilities, reduced prices for spectacles, holiday packages, etc.

Some of these provisions have been introduced to compensate for disadvantage of one form or another and to enable older people and other disadvantaged groups to continue to participate in social and economic life. We see no reason for questions to be raised about these and believe that provisions which facilitate social inclusion, social cohesion and economic involvement of people who would otherwise be excluded should be capable of justification.

However, we are also aware that some preferential treatments are offered to specific age groups by service providers, particularly those operating in the commercial sector, and that the justification for offering these provisions would be linked to marketing aimed at particular age groups within the population. Obvious examples would include sales promotion activities for holidays and consumer goods. This is the case of goods and services offered at special rates or reduced price by private companies who want to attract these specific categories of customers. Sometimes the aim is to increase their business during off peak hours or outside school holidays. It is the case that most senior organisations and youth organisations value these "special" treatments and it is often the case that these groups actually lobby to get special rates for their respective age groups, generally to help compensate for disadvantage.

Both the European Youth Forum and some AGE members have expressed concern about the potential impact that any new European directive aiming to combat unjustified age discrimination in access to goods, facilities and services would have on products or marketing strategies of this nature. We are clear that we want to see unjustified discrimination in key areas such as health care and insurance prohibited and we are also keen that justification should be allowed to continue for initiatives which take whole population approaches where this is economically efficient - such as in vaccination programmes, as we have discussed further, and to compensate for disadvantages such as low levels of income.

AGE and its' members feel that there are circumstances where differences of treatment by commercial organisations in favour of younger and/or older

people are justified and should therefore be allowed. For example, when the intrinsic aim of the business is to provide a professional specialised service focused on the needs of these age groups (for example, senior travel agencies) or when the provider aims at specific age groups for marketing purposes (for example, reduced rates in retail prices for spectacles, cinemas, sport clubs which help to broaden take up of these services or spread usage outside peak hours., etc).

We recognise that this is a difficult area and are interested in debating this area further with other stakeholders. In the meantime, as the European Commission looks to bring forward proposals in this area, AGE considers it important that this area is considered carefully to ensure that it is dealt with effectively and creatively to avoid unintended consequences, with the real focus for the debate being on the main areas of concern around health care, insurance and the use of negative images.

In our view, an article on positive action will be essential to protect those provisions which seek to redress a specific disadvantage. In addition, a special article on justified differences of treatment on the ground of age may well be needed to ensure that the provisions which are targeting young and older people in the circumstances we explore above are maintained.

IV. Conclusions and general recommendations

IV.1 Why EU action is needed

Age discrimination is a complex issue which permeates all societies. Addressing it effectively is an intricate challenge which calls for a comprehensive approach: an adequate legal framework, measures to ensure proper implementation and actions to raise public awareness.

Age discrimination in access to employment and training is already prohibited under Directive 2000/78 (the Employment Equality Directive).⁹ As the examples presented in this report demonstrate, age discrimination is unfortunately not limited to the labour market. It occurs across many key areas of life, from undue age limits in access to insurance to unjustified upper age limits in access to health care or to negative images of older people in the media.

In AGE's view, to adequately address the pervasive age discrimination which prevails in many areas outside employment and to ensure equal opportunities for all regardless of their age, action is needed at European level in line with the EU fundamental rights principle.

Although our report focuses exclusively on age discrimination, AGE members understand that our objectives could be equally achieved within a broader instrument covering discrimination on other grounds, such as sex, religion or belief, disability and sexual orientation. We agree with other NGOs such as

⁹ [2000] OJ L303/16.

ILGA-Europe that a comprehensive anti-discrimination initiative could be a more effective way of addressing multiple discrimination and ensuring that all grounds of discrimination are treated equally.

However, there are some specificities in relation to age discrimination which would need to be taken on board and the purpose of this report is to raise awareness of them.

IV.2 What age related specificities should EU action take on board?

IV.2.1 Insurance services

If we want the future EU legal instrument to deliver results in relation to age discrimination, and that any proposal continues to permit the use of reliable and justified actuarial data and projections, then we believe that there is a need for clear guidelines on how insurance companies can and cannot use age as a proxy to determinate risk. If an exemption clause for insurance services is included in the new EU directive, as is the case of Article 4 of the Directive on gender equality in access to goods and services, the new instrument is going to fail to address the pervasive discrimination faced by older people in accessing insurance products. A much stricter clause is needed to ensure equal opportunities for all regardless of their age.

IV.2.2 Upper age limits in access to healthcare

With due respect to the subsidiarity principle, any new proposal for a directive to combat discrimination outside employment should address the use of upper age limits in access to essential health services such as preventive care. At a time when the European Union is trying to ensure free movement of patients, the issue of universal and equitable access to health services should be enshrined in any new initiative aimed at guaranteeing equal opportunities for all in all areas of life. The rationing of health resources on the ground of age should be combated at EU level as an infringement to the fundamental rights of older people.

IV.2.3 Ageism in the media and among policy makers

The negative images and stereotypes about certain groups of people such as older people should be covered by any new EU initiative to combat discrimination outside employment. We are aware that the Commission's proposal to include legislation against sexist images of women in the media in the scope of the Gender Directive met with such a reluctance from the media industry that it was removed from the Commission's proposal. We strongly recommend however that this should be included in any new initiative that the Commission may propose and that strong action is taken to expose and address the impact of negative imagery on the culture of our society.

IV.3 Legislation will not be enough: awareness raising is badly needed

Finally, AGE would like to recommend that any new initiative to combat discrimination outside employment should include awareness raising on the issue. This is particularly important since ageism is embedded in our culture and great efforts will be needed to change mentalities.

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