

Vulnerable Workers in Times of Social Transformations

Discrimination and Participation of Young and Older Workers,
and Social Dialogue Stances

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Age Discrimination and Age Diversity Management within the Vulnerable Age Groups

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Abstract Age discrimination legislation is coming into force across EU member states, but the context is now very different to when this legislation was first conceived prior to the economic crisis of 2008. Older workers and younger workers are both vulnerable, but it is far from clear that age discrimination legislation offers them any protection. In this chapter we explore what is meant by age discrimination and what forms it takes, from the perspective of older and young workers as well as various social dialogue agents, experts and policy makers in this area. The paper finds that older workers are still finding themselves frozen out of employment once they become unemployed and younger workers are facing, in many cases, impossibly high barriers to entry. For vulnerable workers in both age groups, there is a sense in which they are deemed to be failing to match up to the middle-aged ideal-typical worker. The authors suggest that this is perhaps a new basis for solidarity between these vulnerable age groups; in stark contrast to the reductionist view of 'intergenerational conflict'.

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1 Introduction: the Changed Context of Age Discrimination

The issue of age discrimination is not a new one, but it is one that has experienced something of a revival in recent years (Macnicol 2010). And, of course, discrimination can be felt and play out differently in different spheres of life – in communities, in families, in the work place, and in institutions of welfare. In recent years, however, a number of pressures associated with globalisation, population ageing and welfare state re-trenchment, particularly in respect of pension provision, are said to necessitate the extension of working life. Coupled with these supposed trends is

also the demand that older people have made for the right to extend their working lives and to retain a useful identity through what has come to be known as ‘the third age’ (Gilleard, Higgs 2010). Economic necessities and cultural demands thus conveniently coincide. Among those inciting older people to redefine themselves as active workers until well into their later years were organisations like World Bank, the OECD and the World Health Organisation (Moulaert, Biggs 2012). Article 3 of the Lisbon Treaty made active ageing the basis of solidarity between the generations as it is a key goal of the EU 2020 growth strategy (European Commission 2012). This international emphasis on active ageing has served to place the issue of age discrimination in the labour market and in the workplace more centrally on policy agendas, and has given rise to a number of efforts to legislate against age discrimination in the labour market. In the European Union, the Treaty of Amsterdam made a general commitment to achieve a high level of employment (O’Connor 2005) and the prevention of age discrimination in the labour market has been tackled by means of the Employment Framework Directive of 2000. European anti-age discrimination legislation is said to recognise that «both younger and older workers have rights to age equality» (O’Cinneide 2005, p. 5) and, moreover, is not just concerned with formal equality (i.e. that individuals in a similar situation should be treated equally) but, in theory, is also «concerned with combating age-based disadvantage and upholding basic rights». Member states have progressively implemented age discrimination legislation in national laws. Many have also lifted their default ages of retirement (see Table 1).

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Table 1. Adapted from Age Discrimination in Europe, Ius Laboris

	Austria	Belgium	Italy	Poland	Spain	UK
Date legislation was introduced	The Equal Treatment Act and the Federal Equal Treatment Act came into force in 2004.	The Act Against Discrimination of 10 May 2007 entered into force on 9 June 2007.	Italy implemented the EU Directive on 9 July 2003.	General equal treatment provisions came into force in June 1996. Detailed age discrimination introduced by Labour Code of 2003 became binding in January 2004.	The Spanish Constitution of 1978 forbids all forms of discrimination. The Workers' Statute of 1995 prohibits discrimination in employment. The EU Directive was implemented in Spain December 2003.	The Employment Equality Regulations of October 2006 implemented the EU Directive. The main laws are now contained in the Equality Act 2010.
Who is covered	All employees with private contracts, self-employed people with regard to access to self-employment, and civil servants of the federal government are covered.	All employees, candidates for jobs, independent workers, civil servants, partners, trainees, voluntary workers and affiliate members of supplementary social security schemes.	Main groups covered are: employees and contract workers in both the public and private sector.	Employees including temporary workers, job applicants and graduates are covered by age discrimination law. The provisions do not apply to the self-employed, persons working on contracts and other civil law contracts.	Protection extends to all Spanish nationals and foreigners. Only employees who work under ordinary or special employment contracts are protected by the employment courts against direct or indirect discrimination.	All employees, contract workers, office-holders, partners, persons applying for training, persons using employment agencies and students.
Provision for direct/indirect legislation	Yes	Yes	Yes	Yes	Yes	Yes
Default retirement age	Yes	No	Yes	Yes	No	No
Age	65 for men and 60 for women.		65	65 for men and 60 for women. Additional groups also able to retire earlier		

The current recession and concomitant contraction of employment, however, creates a new context for age discrimination in the sense that older workers are vulnerable to layoffs but also face worsening levels of social protection in retirement. Extended working life is fast becoming an economic necessity (not just a means of remaining socially useful or of bolstering ailing productivity) at the very time when economic recession is rendering forced early exit more likely. Where 'early retirement' was arguably a convenient mechanism for employers to shed older workers, now equalities legislation, in theory, removes that facility. Further, one significant concern about anti-age discrimination legislation is that it will enable employers to discriminate more, but now «on the 'rational' grounds of productivity» (Macnicol 2010, p. 7). It remains, therefore, to be seen whether anti-discrimination legislation like the removal of the default age of retirement will help or hinder older workers seeking employment and whether age-blind productivity demands will make it harder for older workers to remain in employment. Furthermore, it is clearly not just older workers who are facing discrimination in the labour market. One key characteristic of the current economic crisis and recession is the extraordinarily high level of youth unemployment, particularly in Southern European countries. Younger workers are facing excessively high barriers to entry into the labour market and, as our findings show, this could be said to add up to an emergent pattern of disadvantage and indirect discrimination. So, while initiatives like the EU's 'Youth on the Move' policy and national policies towards enhancing young people's employability through education and training at least recognise the crisis of youth unemployment, we need to ask whether training and experience requirements may themselves add up to a pattern of indirect discrimination against the young. For this vulnerable age group, it is far from clear that the age discrimination legislation, which at least gives a minimum of protection to vulnerable older workers, has any relevance for younger workers at all.

There is also the long-standing question of whether age discrimination in employment is even the reason why older people tend to withdraw from the labour market before formal retirement age (Macnicol 2010). Indeed, across Europe the trend has been (Walker 2005), and continues to be, early exit from the labour market. In 2012, across Europe, the employment rate of older workers aged between 55 and 64 was less than 50%, although there are significant variations between member states (Sinclair et al. 2013). From a review of the literature, McNair (2006, p. 485) concludes that, in Britain at least, decisions to withdraw from the labour market before the mid-50s are «almost entirely health related» and, for women in particular, caring responsibilities often precipitate labour market exit. Of course, this is not to say that anti-age discrimination legislation will have no effect, but it does raise questions about how much can be achieved without policies and strategies that are sensitive to lifecourse

issues. This brings us to the second theme of our chapter – age diversity management strategies and practices. So far as the EU’s 2020 strategy is concerned, age discrimination is supposed to be accompanied by more pro-active strategies for ensuring life-long access to training, ensuring healthy working conditions and, crucially, «adapting careers and working conditions to the changing needs of workers as they age» (Council of the European Union 2012, p. 8). Indeed the Employment Framework Directive allows for positive action to compensate for disadvantage and to protect disadvantaged and vulnerable groups (O’Cinneide 2005). But again, in a context of rising levels of unemployment and austerity, how much of a priority is active age management likely to be?

In summary, then, concerns about age discrimination and the management of a diverse work force were conceived in a context of relative economic prosperity when, for a variety of reasons, the chief concern was to retain the older worker. Age discrimination legislation is now coming into force across EU member states, but the context is now very different. Older workers and younger workers are both vulnerable, but it is far from clear that age discrimination legislation offers them any protection. In this chapter we explore the following questions from the perspective of older and young workers as well as various social dialogue agents, experts and policy makers in this area:

- What is meant by age discrimination? What forms does it take in the new economic context of recession? How do those differ between younger and older workers?
- What formal, legal efforts have been made to remove age discrimination? How effective are these measures in combating discrimination and disadvantage for both vulnerable age groups?
- What evidence is there of active promotion of age management practices?

2 Findings from the LinkAge Study: an Overview

Within this theme, we were interested in exploring age discrimination in terms of labour market access and experience in work for both sets of vulnerable age groups. Of particular interest is the question of whether there is something specific we might call age discrimination that is meaningfully addressed in equalities legislation. In age discrimination legislation, a distinction is drawn between direct discriminatory acts and indirect discrimination where practices, although perhaps not discriminatory in their intention produce discriminatory effects. Among our individual workers, there were perceptions of both direct and indirect discrimination, but there appeared to be a hesitance on the part of social dialogue partners to label certain practices in relation to the hiring and dismissal of workers in

vulnerable age groups as direct discrimination. There was, however, a certain sympathy among employers' representatives, policy organisations and trades unions that certain practices can be discriminatory in their effects. For older workers the persistence of the well-documented misconceptions and myths still abound across all countries in the study. There seems to be an almost universal assumption that older workers are more prone to sickness, are less productive, that they will expect higher wages and are over-aware of their statutory rights.

For younger workers, stereotypes are perhaps less in evidence, but this does not mean that they do not face the discriminatory effects of a whole raft of practices such as the general casualisation of labour and the escalating demands for experience and skills that are out of all proportion to the actual demands of the job.

3 Perceptions of Age Discrimination: Younger Workers

Prejudice against younger workers on the part of older employers and employees is not new. We came across some evidence of age-old myths about younger people expecting too much, being poor time keepers and time wasters, having low motivation and not showing enough loyalty to their employers. But these myths and prejudices are somewhat secondary to what seems to us to be a clearly emergent pattern of indirect discrimination. For vulnerable young workers the key aim is first to secure employment that will enable some sort of independent life and, ideally, to access employment that is commensurate with qualifications and that can be a starting point for progression along a career path. For older workers the aim is to re-gain access into work following either a period of forced unemployment, or the revision of an earlier decision to retire for financial or social reasons. Put perhaps somewhat simplistically, the different discriminatory effects these age groups face are polar opposite. This was neatly summarised by one Spanish younger worker:

They (older workers) have the experience but lack qualifications; we (younger workers) have the qualifications but lack the experience. (SP-YW4)

For many younger workers the entry bar to employment is simply set too high. Employers' high requirements in terms of work experience effectively rule them out of even applying for many jobs. As one Austrian younger worker put it:

As young person you are often confronted with a lack of work experience. And if you read a job application, [employers] prefer to hire some-

one who is 25 years old but who has 30 years of experience. At least this is my impression. (AT-YW4)

Employers' expectations are often out of line with what training programmes can realistically deliver. As one Belgian policy maker stated:

Employers are more and more demanding. Young people should have a very good education and specific training, two to three years of work experience, a driving licence, and be perfectly be-lingual in Brussels. Existing training often does not match companies' needs, however, which are evolving very quickly. (BE-TUR8)

The lag between employers' requirements and the capacity of training programmes to deliver them is one source of disadvantage for younger workers. However, across the board there is a sense in which employers are differentiating between younger workers with similar qualifications on the basis of acquired experience and training, often irrespective of the level of skills and experience actually required for the job. Hence the feeling often expressed by young workers that the gap between what they can offer and what is expected of them can never actually be bridged. A feeling of sheer exasperation at what employers now expect was felt by many of our young interviewees. As one Polish worker stated:

The employers' expectations often go beyond their needs and abilities. A college graduate, for instance, is expected to have 5-6 years of professional experience, which, with the current system of education in Poland and the condition of the labour market, is unrealistic. (PL-TUR2)

These unrealistically high expectations then set in train a series of other practices, which produce indirect discriminatory outcomes. For example, to acquire the necessary experience, younger workers are often forced to take on unpaid or very low paid work. Voluntary work, internships and what are often labelled as apprenticeships, but which in fact display none of the features in terms of essential preparation for eventual entry into a profession or career, are now commonplace across the countries of study.

However, not all young workers can afford to do this, particularly where family support is lacking or where social security rules make the take up of unpaid or very poorly paid positions prohibitive. Neither do all have the social capital which is often necessary to access such opportunities in the first instance, particularly for internships that are genuinely a route into profession. For others, with the financial means and the social capital, there are internships and apprenticeships available which may translate into perhaps more meaningful career opportunities. In this way, then, what

begins as indirect age discrimination spills over into indirect class, or social discrimination.

Effects on levels of social mobility are keenly felt across all countries. For the Southern European countries and Poland there are real concerns that exit from the country is an option for those who are socially mobile and staying put and relying on extended family support is the option that remains for those who are not. But, even in the UK, where youth unemployment is relatively low, there are still real concerns about falling levels of social mobility and rising levels of inequality which will be felt for years to come. In the words of a representative of one UK policy organisation:

One of the things that we've seen very clearly over recent years is the inequality gap has got wider. That people who are disadvantaged, who have less skills, poorer education are actually being denied opportunity. And so we're seeing an increase in the gap in both life expectancy and healthy life expectancy of those groups. Social mobility has gone down and so for us it is very much around those people who are most disadvantaged and the people who are being most critically affected by this. (UK-PO1)

So there is a widespread sense that employers' demands with respect to the skills that young workers should have on entry into work are unrealistic; that in the absence of training, these compel younger workers to seek low paid or unpaid work to gain the experience which then embeds a pattern of inequality and falling social mobility. The unions, for their part, perhaps, though, display a certain ambivalence on the question. On the one hand, they can see that 'apprenticeships' are an important means of acquiring necessary skills and experience; on the other hand, they fully recognise that these can be vehicles for exploitation. This ambivalence is neatly summarised in the words of one UK trade union representative:

Well there's a big issue I think about people getting access into work at the moment generally, but the lack of work experience... I mean one of the important things to say is, although we criticise the government for a complete inadequate response to the youth unemployment crisis, we also say there is a genuine need to increase training and apprenticeships; I mean we have to be careful when we go down that line because there are a lot of opportunities for young people to be exploited in a way which is not appropriate, but at the same time we want to be in there talking to employers about decent schemes that do provide those opportunities for people. (UK-YW2)

The question is where the line is drawn between 'apprenticeships', internships and voluntary placements that are additive and those that are exploitative.

There are, of course, notable exceptions to the trend towards ever increasing barriers to entry for young people. Some sectors, such as the financial and insurance sectors highly qualified workers are very much in demand and younger workers in these sectors did not communicate the same sense of vulnerability. However, what we also encountered, and somewhat counter-intuitively were perceptions that more highly qualified younger workers (notably graduates) may face additional discriminatory effects as a consequence of state policies. In Belgium, for example, youth employment policies are aimed primarily at the very low skilled and, in the perception of more qualified workers, insufficient attention is paid to their needs. In the UK, those with higher skills reported that they were finding it difficult not only to find work that matched their skills, but also in persuading employers to let them take on work that is deemed to be beneath their capabilities. The perception among the more highly qualified workers was that those with low skills could get low-paid entry-level jobs more easily than them. In Belgium and Austria too, similar observations were made. As one young Belgian worker put it:

I could not find a job in my field. So I looked for a job in a restaurant. But employers told me that I did not have enough experience, even though all the jobs I had held when I was a student were precisely in restaurants! I have decided to return to university and I am sure I will find a job easily, even in a restaurant because I will be a student. Employers pay lower social charges for student jobs. (BE-YW7)

As another Belgian worker put it to us:

I was pretty disgusted because I have actively sought work and was told that I was not experienced enough. Many employers have also told me they could not take me because I do not fulfil the eligibility conditions to benefit from the regional employment policy in Brussels that favour certain types of job seekers. I had a few interviews, but in the end I got no offers because I was overqualified. Employers receive subsidies to employ less qualified people. (BE-YW3)

There is then clearly a need to understand more how current employment and engagement practices produce different discriminatory effects within the same vulnerable age group, and to explore further the insight that it is not necessarily those with the lowest skills and qualifications that face the greatest challenges. Policies designed to help the very low skilled may, in fact, disadvantage those with higher skills.

Another alarming trend has been the rise of the so-called 'junk contract', which appear to be particularly prevalent and rising in the UK and Poland. These can take a variety of forms, but include the so-called 'zero

hours contract' in which employees make themselves available but are not guaranteed work from one week to the next. These are used in the retail, hospitality and elderly care sectors. While numbers are relatively low such types of employment are on a steep upward trajectory (Guardian Newspaper, August 4th 2013). In certain cases, these can also contain exclusivity clauses, whereby employees are expected to be exclusively available to one employer without guarantee of work. Junk contracts may also include civil law contracts, lacking the protection of employment law and without the possibility of building up entitlements to social security, and in some cases, employment-based health insurance. In Poland, the union, Solidarność, has consistently campaigned against such junk contracts and estimates that some 5 million workers in total were on such contracts and that some 70% of workers between 18 and 35 were on contracts beyond the scope of labour law. In October 2012 Solidarność launched its largest campaign yet, aimed at bringing public interest to the issue by stressing the scale of the problem, along with its effects upon both the employees and the entire economy. The motto of the campaign was: «I don't want to start from scratch each day. End junk contracts now». Again, such contracts may be regarded as a means of gaining experience in the short term, but there are fears that they trap especially younger workers in temporary work. For the most part, however, where younger workers had experience of junk contracts, their views were mostly negative:

A lot of my friends have experienced that [...] Company X, I have about five friends I know who have been employed over the last year by them, they've had a couple of hours and that's it, no contact again about shifts and they've heard nothing back, and they've been out of work ever since. (UK-YW7)

The last job I had I was on zero contract hours, so that didn't help me at all and that was kind of a killer because sometimes I would get hours where I'd do two to four hours and then I wasn't in for three days, and then I'd do another two to four hours [...] but like I said a job is a job and I didn't want to turn it down because money is money, I few hours here and a few hours and it all adds up. [...] But in the same sense it would be beneficial to have a straight nine-to-five job being paid the minimum wage to get your average salary at the end of the week just so you know you're being paid. (UK-YW1)

Young people also noted the complexities and inconvenience of zero hours working and claiming out of work benefits:

At the moment I feel much better as I know that I will be paid every week and I've got work, but when I was on zero contract hours everything was

up in the air, I never knew how much I'd be getting paid each week, I never how many hours I had each week and it was just hard.

Sometimes between working on signing on and the zero contract hours I had to tell them [the jobcentre] how many hours I did a week so they would take it from my jobseekers allowance and some weeks I didn't even make enough so just got my job seekers. But like I said before work is work and I didn't want to turn it down because out there are people with less than me. (UK-YW1)

4 Perceptions of Age Discrimination: Older Workers

Trends towards early exit from the labour market, it is asserted, have generally served to devalue older people in the labour market and to reinforce age discrimination (Walker 2000, 1997). An EU-wide survey carried out by Walker (1993) in the 1990s revealed that all age groups believed that older workers faced discrimination. Common stereotypical views in the UK, for example, were that «older workers are hard to train; do not want to train, lack creativity; are too cautious, cannot do heavy physical work; have fewer accidents and; dislike taking orders from younger workers» (Walker 2005, p. 691). While our study is not a systematic survey of attitudes towards older workers, it nevertheless reveals that many of those long-held stereotypes still persist despite national and international policy efforts to alter perceptions of older workers.

Our study shows that well-worn prejudices abound. There is a common perception among employers that older workers are: less adaptable; more prone to ill health and absence; will demand higher wages; and are (too) well informed of their rights. Even in cases where workers have offered to work for lower wages and on a more casual basis, they are often told that they are over-qualified. Conversely, they may face discrimination because of a perception that the skills they have acquired in one work environment are ill-adapted to a different work, particularly where IT skills are demanded. There was some evidence that practices that could be deemed to be discriminatory against older workers applied also to workers who were significantly younger than 55. In Austria, for example, older interviewees reported that they had faced difficulties in regaining access to the labour market because they were deemed to be overqualified, to be demanding higher wages or to have too many accumulated entitlements, even as early as 45. Similar observations were made by older workers in Spain. As one older worker put it:

In the current situation of the market, once you are over 40 to 50 years old, it's almost impossible to get hired unless you're highly qualified. (SP-OW6)

We even encountered instances of direct and overt discrimination:

At the beginning, I was offered the position I applied for, but suddenly a negative reply followed. I wanted to know exactly why this happened, firstly accepting me for the position and then rejecting. The [person responsible for human resource] replied «I can get 1.5 18-years old workers instead of you». (AT-OW6)

The most recent Belgian barometer of diversity, implemented by the Centre for Equal Opportunities and Opposition to Racism, shows clearly that workers over 45 are exposed to a high risk of age discrimination when interviewed for employment. More than half of human resources directors say that the age is a decisive criterion in the final choice of a candidate. Organizations from three states invest in the training of people aged over 45 and Belgians tend to think that a company with mostly older employees will be less efficient.

One of the most common obstacles to re-employment faced by older workers refers to their lack of educational qualifications when it comes to the formal selection processes in most companies, especially the larger ones. Most of the skills and competencies of older workers have been achieved through long years of service; most of them are very specific to one company but not attested by formal qualifications or diploma and are not readily transferable to other sectors or occupations. On the other hand, most of the skills of qualified older workers who do not regain employment quickly become obsolete in a context of deep technological change, particularly digital skills. Moreover, it is not just in applying for new jobs that digital skills become a barrier, they can also be a factor in retaining work once acquired. As one UK young trade union representative put it:

As far as obtaining jobs, you'll give you an example of one of branch members, who is a fifty year old who has been laid off from the construction industry, his come into a call-centre and his being taken through disciplinary hearings because on the job application it say you must to be numerate, you must understand how to use office and these can of things, they was an automation assumption that he would be a hundred per cent completely computer literate against his colleagues who are primarily young, they is an expectation that you will be able to utilise different programmes for example. So whilst he fits the criteria, against his younger counterparts it looks as if he's fallen behind, but again it comes back to education there's still a stigma against anyone who isn't eighteen or nineteen in college, we had a forty old woman who came on a course and she was too embarrassed to continue it for the stigma of failing rather than further learning. (UK-YW3)

This also reveals the stigma and shame older workers feel at their lack of digital competence relative to younger workers.

We encountered instances of felt discrimination for both vulnerable age groups, particularly in respect of: access to training opportunities; the organisation and allocation of work tasks – the latter, as we will discuss paradoxically being a consequence of a lack of discrimination between age groups.

5 Access to Training

A perception of a general reduction in levels of in-work training is pervasive. It must be said, though, that there are differences between countries and between age groups here in perceptions of employer training. In Austria and Belgium, our younger worker respondents seemed to be broadly happy with work training, although in Belgium there was also a perception that older workers had fewer opportunities to engage in work training.

Training is mostly for young people. After age 50, access to training is more complicated. Officials are involved in external seminars and make a report back. This is the way we are kept informed. (BE-OPg).

In Poland, the observation was made that those on fixed-term contracts are not taken as seriously by employers, or given training opportunities, compared with those on permanent contracts. In the UK there was a pervasive feeling that employers were scaling back on in-work training which affected younger and older workers alike. In Italy there was a widespread perception that levels of training have been persistently poor and worsening across the board.

Certain employers are of the view that it is a cultural deficit on the part of older workers that they have been complacent and have failed to refresh their skills and knowledge. This was notable in Poland, for example. Previous research carried out in the UK has suggested that for older workers a lack of training may be as much due to the refusal of employees as to discrimination on the part of employers (McNair 2005). However, this may, in turn, feed prejudices on the part of employers. Some older workers in our research reported that they feel that they are sometimes excluded from training, since employers believe that they are unwilling to participate. There was also a perception among younger workers that it tends to be younger employees who seek out training courses, as they consider them an opportunity to gain new skills, while older workers tend to operate primarily on the basis of their experience and practice.

Notwithstanding these possible generational/cultural effects, given that, as noted above, lack of experience and training are oft-quoted reasons for differentiating between workers, declining levels of training may serve to compound processes of indirect discrimination. For young people facing

such high performance expectations it means fewer opportunities to enhance their performance to expected levels. For older workers, lower levels of training and support may hamper their ability to adapt to changes in technology and IT. The discriminatory effects of myths and prejudice are, thereby, compounded by lack of training.

6 The Organisation and Allocation of Work Tasks

Our research has found that there are issues related to what we might term insufficient differentiation between workers of different ages, or to put it another way, insensitive, or lacking, age management practices. For example, older workers may find it hard to negotiate reduced working hours or may be expected to continue to carry on with the same demanding shift patterns into older age. This is particularly so where companies have undergone restructuring and layoffs and the work is redistributed among remaining workers. As one Belgian worker put it to us:

I think the pressure for the over-50s is the same as for others. Working time is not adapted to their age and they are required to produce the same results. (BE-OW9)

Older women appear to be particularly vulnerable to insensitive age management practices and find it difficult to negotiate flexible or part-time hours to accommodate caring responsibilities. In the perception of one policy maker in the UK, women find it difficult to even broach the subject with employers which reinforces the mistaken perception that there is no problem. (These points are taken up more fully in the chapter on gender issues.) Younger people, on the other hand, often find themselves being judged in the work place by the same standards as older workers with much longer experience. Their performance may be seen as lacking relative to more experienced workers.

Some younger people were, though, of the opinion that when it comes to allocating shifts and deciding holiday schedules, older workers are treated more favourably by employers. This is illustrated in the quotations from two younger workers in the UK:

I find that employers don't want to offend the older people but with the young people they don't care about how they treat them. (UK-YW4)

Erm yeah I would say so because they call them the full-timers; majority of the full-timers are older and they do get more opportunities or if they need holiday because they work 5 times a week because they technically need to benefit more, that's the sort of consensus. (UK-YW5)

There are, however, notable exceptions to this pattern. In Italy, for example, we were told that craft enterprises regard workers over 55 as a crucial element of the labour force. Senior workers are regarded as an asset as they are the holders of the company's know-how. In particular, this dynamic concerns small enterprises, widely present in Italy, in which a small staff base necessitates the retention of all workers.

In summary, a lack of recognition of different capabilities and capacities results in a certain disadvantaging of both vulnerable age groups. While older workers may have certain advantages in terms of seniority when it comes to the organisation of shifts and holidays, there is still a strong sense in which workers are not thinking seriously about the different needs of younger and older workers. This brings us to the question of the active management of an age-diverse workforce.

7 Active Ageing and Age Diversity Management Strategies

For Walker (2005, p. 685) «the term 'age management' may refer specifically to the various dimensions by which human resources are managed within organisations with an explicit focus on ageing and, also, more generally, to the overall management of workforce ageing via public policy or collective bargaining». It is an idea that has been around for some time and coincides with the growing international interest in the extension of working life, as discussed above. Given that, we wanted to know what kind of active ageing policies are in place and how salient they are in the current context. Although, again, this is not a systematic survey, we found little evidence that active ageing is currently a prominent issue for social dialogue partners. The UK is illustrative here. A public policy programme entitled '*Age Positive*' which is about providing advice and guidance to employers on the active management of an age-diverse workforce has seen its resources dwindle to such an extent that, at the time of our research, was being managed by just one person within the Department for Work and Pensions. This is quite staggering for a country that has recently removed its default age of retirement, is progressively raising the state pension age, and recently strengthened its equalities legislation to take greater account of age discrimination. In the minds of many commentators, the primary interest of the UK government currently is to remove bureaucracy and regulations which are seen as hampering growth. The Age Positive campaign, seen in that light, represents another instance of, so-called, 'red tape'.

Similarly, in the Spanish context, the *Strategy for the Employment of Older Workers 2012-2014*, concluded by social partners in 2011 had several objectives: to increase the employment rate of older workers (over 55); to assist in maintaining jobs for this age group; to improve working conditions; and to foster the incorporation of older workers back into the labour

market; and to combat age discrimination. Despite the advances of this active ageing strategy, its effective implementation is at risk not only because the current economic crisis presents new labour market priorities, but also because it was approved just before the change of government in 2012.

In Poland, the State Programme to promote the Activity of Older People has the aim of an activity level of 50% over people over 50 by 2020. It has two key employment objectives – to educate older people; to promote integration within and between generations – and two key social objectives – to promote older people's social inclusion and to improve social services for older people. During the first two years of the programme (2009 and 2010) some 14,000 people made use of the training, apprenticeships and subsidies to business start ups offered. Unions, for their part are highly sceptical of the programme's benefits.

None of the government's 45+ or 50+ programmes has ever worked. The same goes for the programmes that target young people. (PL-TUR-1).

8 Employers, on the Other Hand, Think That it is Slowly Bearing Fruit

Belgium and Austria have arguably the most comprehensive age diversity programmes in place. In Belgium, the three linguistic regions have different diversity policies, but all have diversity counsellors to mainstream the diversity issue at workplace level. These counsellors have been supported financially from regional government funds. In the Brussels Region, their main task is to develop diversity action plans within companies together with employers and unions' representatives and in cooperation with the region's Territorial Employment Pact.

However, according to several trade union interviewees the real impact of diversity plans on hiring of persons from vulnerable groups is very low. The main interest of this instrument, they say, is to give trade unions the opportunity to access information on the composition of the company's staff. It then helps open dialogue on the issue of diversity, including age issues, and asks for facilities for older workers if needed. As one trade union representative explained:

Workers have become aware of the diversity issue [...] The diversity plan breaks taboos and tears down some walls but it does not reach the heart of the matter: diversity is not yet equal to the hiring and retention of employees. (BE-TUR3)

Another innovative instrument was recently adopted in Belgium in order to keep older people working, is the National Labour Council agreement on «the implementation of a plan for the employment of older workers in companies» (CCT 104). Its main objective is to make it possible to hire

or keep workers aged over 45 years, as it has been observed that people over this age are already exposed to age discrimination. CCT 104 requires private employers with more than 20 employees to establish an annual or perennial plan that must contain at least one employment measure in several areas, such as skills development, including access to training, career opportunities in the company, possibilities of adaptation of working hours and conditions and a system of recognition of acquired skills.

Social dialogue actors are involved in the process as the plan must be submitted to the consultative bodies, including union representatives, who may suggest changes or additions. Where proposals are rejected, the employer must justify its position. Social players are, however, ambivalent about this new instrument. They recognise that plans based on age can be helpful in establishing dialogue on the topic, as the diversity plans do. As one trade union representative pointed out:

The interest of the plan is that it contains basic information on the company; it could be helpful to initiate a preventive policy based on age, by reflecting the age of ALL workers, including younger workers. (BE-TUR2)

However several union representatives also clearly see the initiative's limits. In the words of another trade union representative:

Older workers are accused of not knowing how to adapt to new technologies compared with younger workers, of being too expensive, etc. and at the same time we want to increase the participation of workers over 45 in the labour market. CTC 104 is not going to solve all the problems. It opens the dialogue on these issues, but no penalty is provided against an employer who fails to file a plan in time. Recalcitrant employers can present a minimum of proposals and subsequently reject proposals from unions while remaining within the law. (BE-TUR3)

Since this instrument was adopted at the beginning of this year, it is too early to assess its impact on older workers. According to several interviewees, the main impact, as with the diversity plans, will be more on keeping older workers at work rather than on hiring people over 45.

In Austria, the policy aspiration is to increase the activity rate of men and women to 78%, and the activation of older workers is a central element of this. Its Productive Ageing programme was introduced in 2007 with the support of the European Social Fund (Objective 2). This has resulted in a number of measures at regional level including a pilot study in Styria which focuses on cross-generational competence management in small and medium-sized enterprises. Companies are carrying out and the respective results create the basis for further steps towards the implementation

of cross-generational competence management in Styrian SMEs. In collaboration with the human resource development (HRD) managers and stakeholders, this should result in detailed plans and strategies covering, for example, mentoring, work ability coaching and cross generational collaboration (see: <http://www.ce-ageing.eu/index>).

Across our six countries, there is scant evidence that age diversity management strategies are a priority for social dialogue partners. Belgium and Austria are the exceptions here, but even there, these are voluntary programmes and, in the case of Austria, with uncertain funding mechanisms.

9 The Utility and Relevance of Age Discrimination Legislation

In the apparent absence of meaningful age management strategies for integrating an age diverse workforce across most of the countries studied, age discrimination legislation is one of the few public policy levers for protecting vulnerable age groups. It is worth, then, considering whether, it is likely to offer that protection. Here we draw upon relevant academic literature as well as observations from our research participants. The objective here is not to offer a comprehensive comparison of the legal provisions of each of the countries in the study: that is clearly far beyond the scope of this chapter. Rather, the aim is to get a sense of the awareness of age discrimination legislation on the part of younger and older workers and the social dialogue partners. Is there a sense in which age discrimination is being vigorously applied in the interests of vulnerable age groups?

As already noted, the impetus for age discrimination legislation across the EU member states was the Treaty of Amsterdam of 1999. Article 13 «... discrimination on the grounds of sex, racial or ethnic origin, religion or belief, age, disability and sexual orientation». (Bell 2004, p. 242) This quickly gave rise to the Framework Employment Directive, which outlawed both direct and indirect discrimination on a number of grounds including age. A majority of countries incorporated the Directive into national legislation by the 2003 deadline but a number were granted extensions - Denmark, Belgium, Germany, the Netherlands, Sweden and the UK (Walker 2005), partly due to the «inevitable complexities inherent in age discrimination legislation» (O’Cinneide 2002). For a summary of national legal provisions see Table 1. For age discrimination specifically, Skidmore (2001) has argued that this is the slipperiest of equalities of all and individual Member States were given considerable freedoms to be flexible with the law. Article 6 of the Directive permits differential treatment on the grounds of age in the pursuit of legitimate policy aims - including legitimate employment policy, labour market and vocational training objectives - provided that the means of achieving those aims are ‘appropriate and necessary’. Article 6(1)(a) lists the kind of special conditions that may be permissible including special

conditions on access to employment and vocational training, employment and occupation, for young people, older workers and persons with caring responsibilities in order to promote their vocational integration or to ensure their protection (O’Cinneide 2002). Article 6(1)(b) allows the fixing of minimum conditions of age, professional experience or seniority in service for access to employment or to certain advantages linked to employment. Article 6(1)(c) allows the fixing of a maximum recruitment age which is based on the training requirements of the post or the need for a reasonable period of time before retirement. So, to the extent that national legislation is motivated by European law, the grounds for exceptions are very wide indeed. Faced with such legal opacity, there would need to be a certain determination on the part of social dialogue partners to use these legal provisions and it is far from obvious that is the case.

As we have already noted from our research, there is a general hesitancy on the part of social dialogue partners to label what appear to be ageist attitudes as instances of discrimination. As one Austrian social dialogue partner freely admitted, s/he was unable to state categorically that what s/he was seeing could be called discrimination:

I am not sure whether you can call it age discrimination, but the high requirements to youth are unrealistic, some can hardly be met. (AT-TUR4)

As we noted in the previous section, unions are ambivalent on the issue of apprenticeships and internships and so on: whether one should be grateful at any kind of job opportunity for young people or whether the excessive requirements placed on young people and the degraded forms of employment they have to accept in order to gain experience amount to a pattern of indirect discrimination against the young. Young people themselves, although they clearly feel a certain discriminatory effect are themselves unclear about whether this constitutes age discrimination. A common perception was that younger workers are less well informed of their rights than older workers, but as we noted above, the idea of the over-informed older worker is itself, of course, a common stereotype. As one Austrian younger worker put it:

You are not discriminated because of your age, but because you are an apprentice. You are in a certain hierarchy within the company, you have a clear position within the company [...] it is not related to age, but to the position. (AT-TUR4)

Employers, for their part, appear to be ill-equipped to meaningfully adhere to the spirit of equalities legislation. As we noted in the case of the UK, while there may once have been a will on the part of government organisations to actively promote a more positive attitude to the employment

of older workers and to promote an awareness of ageism more generally, that effort seems to have been hugely scaled back in the light of public sector cuts. Similarly, in Poland, despite an espoused policy commitment to combatting ageism, some thought that the policy had failed. As one trade union representative put stated:

None of the government's 45+ or 50+ programmes has ever worked. The same goes for the programmes that target young people. (PL-TUR1)

Others were more optimistic about future prospects though, and in particular government measures to co-finance employee training, job creation, and the system of paid internships.

In Italy, there was a sense that human resources departments were poorly resourced and simply not in a position to support the implementation of equalities legislation. In the UK, ACAS (Advisory Conciliation and Arbitration Service) reports that there had been a dramatic increase in age discrimination cases being brought to industrial tribunals by dismissed older workers and that the average award for successful claims now amounted to some £30,000 (<http://www.acas.org.uk/index.aspx?articleid=3627>). It is, however, hard to draw any firm conclusions from this regarding the effectiveness of age discrimination legislation. On the one hand, it indicates a certain strident attitude among older workers, but on the other hand, also indicates how widespread discriminatory practices are, and how ill-informed employers are of the implications of the legislation.

So, for younger workers, it is far from clear that age discrimination legislation would have any role to play in combating what we have argued amounts to unrealistic expectations on the part of employers regarding entry level skills and experience and the degraded forms of employment contract that they are routinely forced to accept. For older workers, age discrimination legislation may be a means for older workers to gain compensation in cases of unfair dismissal on grounds of age, but whether, in the absence of more active policies to promote a positive attitude towards the older worker (Walker 2005), it will have any effect on encouraging them to remain in the labour market, as was clearly the objective of the original European legislation, is far from clear. The assumption that removal of discriminatory practices will encourage older workers to stay in the labour market has been challenged. Roberts (2006, p 71), for example, argues that the continuing trend towards early exit from the labour market has more to do with the changing nature of the work place as a consequence of «processes of global capitalism» (Roberts 2006, p 71). In particular, these have resulted in a social failure to reproduce what he calls the 'collective worker'. Without overly romanticizing the past, what he refers to here is the kind of solidarities between generations within the workforce

that offered protection both protection for new and experienced entrants who could be ‘shown the ropes’, as well as protection for older workers who could work at a slower pace or do less physically demanding work. Intergenerational understandings about the distribution of wages were also a feature of the work places in which this kind of ‘moral order’ was observed (ibid). While such spontaneous and bottom-up intergenerational networks may well be lacking in the current workplace, it seems that it is something of this spirit that lies behind calls for age diversity management strategies and practices.

10 Conclusion

Our research clearly does not add up to anything like a comprehensive survey of attitudes to and experiences of age discrimination, but from our small sample we can discern the persistence of old myths, prejudices and stereotypes, despite the raft of European and member states legislation to outlaw age discriminatory practices as well as the emergence of new patterns that are discriminatory in effect. Older workers are still finding themselves frozen out of employment once they become unemployed and younger workers are facing, in many cases, impossibly high barriers to entry. These, in turn, are forcing them to take on degraded forms of work contract – ‘junk contracts’- and reinforcing a trend towards taking up low paid or unpaid work to gain experience. Depending on levels of social and financial capital, some are able to seek out and take up these opportunities better than others, and what begins as a form of age discrimination ramifies into a form of social or class discrimination. Clearly these mechanisms amplify in their discriminatory effects according to the level of unemployment in each country, but it is noteworthy that in the UK, where levels of unemployment are generally much lower, younger workers are also experiencing discriminatory effects in relation to labour market access and in respect of a stark diminution of the quality of jobs (for example, the prevalence of internships and zero hours contracts). For vulnerable workers in both age groups, there is a sense in which they are deemed to be failing to match up to the middle-aged ideal-typical worker. As an Austrian policy worker put it:

The ideal-typical employee is a high-performer between 28 and 40 years; or let’s say between 30 and 40 years. And this is the reference against which all others are assessed. (AT-OW4)

This is perhaps a new basis for solidarity between these vulnerable age groups. This would be a better basis for intergenerational solidarities than the rather reductionist view of ‘inter-generational fairness’ that stalks Eu-

European countries in economic crisis. So far as the EU is concerned, the promotion of 'active ageing' is already about meeting the needs of younger people since it is assumed that equipping older people to finance their own social contingencies through wages will free up fiscal resources for younger generations: hence the emphasis on 'active ageing' and 'solidarity between generations' (European Commission 2010). This thinking is also evident among member states in this study, most notably, the UK and its championing of 'generational fairness' (see House of Lords 2013). Moreover, such a laissez-faire, and arguably passive approach – rhetorically championing age diversity and hoping that age discrimination legislation will of itself eliminate age barriers – is ill fitted to the current economic context in which two sets of vulnerable age groups are increasingly forced to work to ensure their social security but face an uncertain economic future.

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