

AT contribution: Ageism and Age-Discrimination

Forms and manifestations of ageism and age-discrimination

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

Statistical documentation of cases of age discrimination is gathered by the Ombud for Equal Treatment in the Federal Chancellery. At the provincial level, the anti-discrimination bodies play a role.

Cases of age discrimination can be brought before these bodies. It should be noted that the definitions of age discrimination at the provincial level may differ, and that age discrimination with regard to the workplace is accorded additional protection by the Equal Treatment Act.

Forms of age discrimination affecting older persons with regard to the work place:

- *Older employees (50+) are often no longer invited to take part in company-internal training opportunities.*
- *In job advertisements and promotions, employees who are in the last third of their working life are often not considered.*

Age discrimination affecting older persons outside of the workplace:

- *Publicly accessible education opportunities are rarely offered for older persons and when they are, they are often offered with limited options. An expansion of educational offer is recommended, especially in the area of digitization.*
- *Older persons are often not accepted when it comes to insurance contracts, financing, and credit plans.*
- *In the medical field, self-determination of older person is often undermined, because the direct exchange of medical information between medical personnel and elderly patients is often neglected. For instance, during the COVID-19 pandemic, the consent or refusal of elderly persons in nursing homes to receiving a COVID-19 vaccination was often obtained from their relatives, rather than from the individual*

in question.

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

The ageing picture in Austria and its development is comparable with other Western countries. The transition from working life to retirement often represents a major disruption to individuals' lives. Although numerous offers are available as part of an "active aging" strategy, it is apparent that attributes associated with "work and productivity" are fading into the background in society.

Digital developments in play a significant role, as retirement often means that individuals are no longer obligated to interact – and therefore be in touch with – the contemporary forms of media and technology. Retirees are therefore vulnerable to exclusion, given that social life is increasingly taking place in social networks and is also experiencing an accelerated development or increasing mechanization. For instance, 20 years ago, digital communication was mostly based on writing e-mails. 10 years later, social networks such as Facebook or MySpace have revolutionized the digital space for interpersonal interaction.

Additionally, society is increasingly moving away from the computer and toward the smartphone. In the last 5 years, the production of videos has gained importance and requires more sophisticated technical prerequisites, such as better cameras, knowledge of editing apps, use of social media such as Instagram or Snapchat).

Especially for older persons, this rapid change poses enormous challenges, which is why their participation in these social spaces is low. On the one hand, the required devices (i.e. smartphones, tablets or laptops) are relatively expensive. On the other hand, dealing with new social networks, such as Snapchat and Instagram, has proven difficult, especially given that older persons are often unfamiliar with the language used (i.e. anglicisms, youth slang, hashtags, etc.).

This creates social gaps that need to be identified and counteracted with targeted measures.

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

The increasing speed of technical innovations, the trend towards more internationalization, and the emphasis on personal productivity are

increasingly revealing generation-specific differences. Younger people interpret the absence of older persons in the digital world as a lack of technical and creative knowledge. Older persons often view the activities of the young as lacking solidarity and life experience and as an exacerbation of egoism and materialism. ,.

In social discourse, a black and white picture is often presented, which creates or amplifies stereotypes.

In addition, it must be noted that the legal definition of age discrimination only exists in the employment sector. This makes it more difficult to identify and prosecute age-discriminatory acts in the private sphere.

Austria therefore supports the international discourse on the question of whether a human rights convention is necessary to protect older persons.

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

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

At the international and regional level, there are currently four instruments that deal with ageism.

- *Charter of Fundamental Rights of the European Union– Art 25.*
- *European Social Charter– Art 23.*
- *Inter-American Convention on Protecting the Human Rights of Older Persons*
- *Protocol to the African Charter on Human and Peoples' Rights on the Rights of Older Persons in Africa*

At the national level, the 1998 Federal Seniors' Act was a landmark step toward strengthening the participation opportunities of the older generation.

The Austrian Equal Treatment Act and the Federal Equal Treatment Act protect against age-based discrimination in the employment sector.

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

*In 2011, the **Federal Senior Citizens' Advisory Council** adopted the **Federal Plan for Senior Citizens**. The primary objective of this plan is to achieve, maintain or improve the quality of life of all older persons or individual groups among them. Goals and recommendations focus on 14 areas: social participation, economic situation, employment in old age, health, education, older women, generations, housing and mobility, care, social security, media, discrimination and violence, migrants, infrastructure. Age discrimination has already been identified as topic of special attention in the federal plan.*

The General Funding for Senior Citizens, which is also regulated by the Federal Senior Citizens Act, provides funding for organizations offering advice, information and support for senior citizens.

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

*The **Austrian Equal Treatment Act and the Federal Equal Treatment Act** protect against age-based discrimination **in the employment sector**. Both discrimination based on old age and on young age is prohibited.*

*The § 20 **Austrian Equal Treatment Act** stipulates that unequal treatment based on age does not amount to discrimination if the unequal treatment is objectively reasonable, justified by a legitimate aim and the means to achieve this aim are appropriate and necessary. This may include the establishment of special conditions for access to employment and vocational training, as well as special employment and working conditions. These conditions may include conditions of dismissal and remuneration, which should be targeted at either promoting the professional integration of young persons, older persons and persons with welfare obligations or at ensuring their protection. Examples might be that a maximum age for recruitment based on the specific training requirements of a particular job is set, or that a reasonable period of employment is required prior to entering retirement. Also, unequal treatment on the basis of age is not qualified as discrimination in occupational social security schemes (i.e. the implementation of different age limits as a condition for membership or for receiving old-age pension or disability benefits).*

*The **Federal Act on the Promotion of Concerns of the Older Generation** (Federal Seniors Act), Federal Law Gazette I No. 84/1998 as amended, 2nd section, established the **Federal Seniors Advisory Council** as an institutionalized forum for dialogue between political decision-makers and*

*representatives of organizations providing services to senior citizens. The **Federal Seniors' Advisory Council** serves as a discussion forum on issues pertaining to senior citizens that are of general Austrian, integration or generational policy significance. The most significant Austrian senior citizens' organizations are represented in this body, which ensures that the concerns of the older generation are adequately represented at the national level.*

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

*In Austria, as well as at the international level, attempts to fight discrimination against older women are gaining significance. Here, the focus is primarily on violence against older women. In 2019, the independent expert of the **Open-ended Working Group on Ageing** stated in her work that older persons are increasingly discriminated against in disaster situations.*

- 8. What legal and other measures have been taken to address and protect from racism, sexism, ableism or other similar forms of discrimination that might be useful models for addressing ageism?**
- 9. Please indicate if there are institutional or complaints mechanism to address inequalities or grievances related to ageism and age discrimination. If so, please provide statistics on cases and types of cases received?**

*The **Equal Treatment Commission** is an independent mechanism scrutinising matters related to discrimination under the Equal Treatment Act, acting before judicial proceedings. If the Commission concludes that a complainant has been discriminated against, it issues an expert opinion and recommendations addressed to the employer. The proceedings aim at facilitating arrangements to avoid or settle legal disputes. Claims for compensation must be asserted before a civil court unless the employer voluntarily complies with the Commission's recommendations. The Federal Equal Treatment Commission is a federal administrative body that deals with individual complaints about discrimination on ground of age in public employment (Federal Equal Treatment Act).*

The Ombud for Equal Treatment is an independent body providing assistance to victims of age-based discrimination in the employment sector. It offers individual legal advice to alleged victims of discrimination, negotiates with employers, companies, institutions and work councils to reach friendly settlements, and provides legal representation to victims of

discrimination in proceedings before the Equal Treatment Commission. Other tasks include raising awareness and providing information to the public about the Equal Treatment Act and cases of discrimination. As a central stakeholder within the complex national architecture for addressing equal treatment, the Ombud for Equal Treatment acts as a helpdesk for individuals seeking to issue a complaint and as an entity providing clarity.

In addition, all regional governments have anti-discrimination offices that deal with age-based discrimination.

Reports related to ageism and age discrimination and other relevant information

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

After the topic of age-based discrimination was included in the Federal Plan for Seniors with goals and recommendations, several basic studies, factsheets and brochures were published in recent years on behalf of the Ministry for Social Affairs and can be downloaded free of charge from the Ministry's brochure service. These include:

- *“Intergenerational quality of life, diversity between urban and rural areas” (Amann 2016) [Original: “Intergenerationelle Lebensqualität: Diversität zwischen Stadt und Land”]*
- *Participation in old age (Amann 2018)*
- *Social participation (2019)*
- *Images of old age (2020)*
- *Quality of life in old age: the importance of education and participation (2020)*
- *Mobility and Participation in Old Age. On connections between mobility health, participation and loneliness (2021)*

In addition, the Ministry for Social Affairs is actively involved in two working groups of the United Nations, which are dedicated to the development of the legal as well as the social situation of older persons. Austria has a leading role in both working groups and explicitly advocates for a progressive reduction of age-based discrimination at all levels. In this context, the Ministry for Social Affairs regularly presents national projects at the UN level and supports the preparation of international studies and

comparisons to increase the visibility of the extent of age-based discrimination in all its dimensions and levels. A recent example of this is a study update by OHCHR, which highlights normative gaps in human rights legislation for older persons (<https://social.un.org/ageing-working-group/documents/eleveth/OHCHR%20HROP%20working%20paper%2022%20Mar%202021.pdf>).