Age Discrimination in Employment Legislation in Europe

The European Union Council of Ministers has adopted the Employment Directive on Equal Treatment (November 27, 2000). The Directive requires all 15 EU Member States to introduce legislation prohibiting direct and indirect discrimination at work on the grounds of age, sexual orientation, religion and belief, and disability by 2006.

Austria

Protection for older workers threatened with job loss (1974). Before terminating an employee over 50 who has worked at the job at least 6 months, the employer must notify the shop steward. If the steward agrees with the employer that termination is appropriate, no further action occurs. However, if the steward disagrees, the steward or the employee may take the employer to court and require the employer to justify the decision. However, it is easy for the employer to justify the decision.

Older worker employment protection (8/1/1993). If a company is going to lay off more than 5 workers over 50, it must report the layoffs to the employment office in advance. The employment office tries to relocate workers immediately and offers new employers incentives.

Belgium

Any employer who is recruiting must treat applicants in a non-discriminatory way, including age.

The Employment Promotion Act prohibits imposing a maximum age when recruiting employees. This covers both implicit and explicit references to age (February 1998).

Finland

In accordance with the Constitution no one should, without acceptable grounds, be afforded a different status on account of, among other grounds, age. The Contracts of Employment Act and the Penal Code also provide protection against age discrimination.

The labor market organizations are strongly involved in the implementation of the National Age Programme. This program incorporates the objective of preventing age discrimination in the employment market. The labor market organizations are also discussing procedures and possible legislative amendments, which could be used to promote a longer working life for the oldest workers.

France

French law prevents discrimination at the workplace (November 2001). The legislation adds new prohibited grounds of discrimination (including age), adjusts the burden of proof in discrimination cases and makes it easier to bring court cases.
Germany

The Works Constitution Act requires works councils to ensure that workers do not suffer as a result of their age.\footnote{9} Also, companies that lay off workers 58 or older must pay a fine equal to six months’ salary.\footnote{10}

Greece

Ban of age limits for exit from work (based on the Greek Constitution and case law), except that once individuals reach the age they can draw pensions, they lose the protection.\footnote{11}

Ireland

Employers must state a valid reason for dismissing employees between 16 and 66 years old (1992 amendment to Section 29 of the Redundancy Payments Act, 1967 & 1991).\footnote{12} A reason relating only to age is not a valid reason under the act.

The Irish Employment Equality Act (1998) prohibits employment discrimination based on age (and eight other grounds).\footnote{13} The Act protects workers between 18 and 65 years old.\footnote{14}

Italy

The Government intends to put forward measures for employment of older people in socially useful activities. Authorities are also trying to develop lifelong learning for employees.\footnote{15}

Luxembourg

An Act concerning various employment-promotion measures provides for assistance to be given in placing older unemployed persons and the long-term unemployed in a job (July 1993).\footnote{16}

The Employment Fund reimburses both the employer's and insured person's share of social insurance contributions to private-sector employers, provided that they take on older, long-term unemployed persons, irrespective of whether they receive benefits.\footnote{17}

Netherlands

A legislative proposal in 1999 contained a ban on age limits in several areas: the recruitment process, promotion, education in relation to labor and mediation for jobs.\footnote{18} There are 7 defenses mentioned in the law proposal itself, on which case age limits can be allowed. Indirect discrimination on the basis of age will also be prohibited in this Bill, unless the distinction can be objectively justified.
Portugal

Dismissal on grounds contrary to the employee’s fundamental rights is prohibited by law.\(^\text{19}\) Dismissals on grounds of age are included.

Spain

Laws prohibit recruitment practices, regulations, collective agreements, and employment contracts that discriminate on the basis of age.\(^\text{20}\)

Sweden

“Work after 45” program to create optimum working environments for older people (1989).\(^\text{21}\) It benefits all workers but focuses on older workers. The program includes reorganization of work, on-the-job training and physical training, and dissemination of information to employers.

Senior employment agencies assist people 60-70 years in employment planning and finding jobs.\(^\text{22}\)

UK

“Getting On” covers recruitment, development and retention of older staff (August 1993).\(^\text{23}\)

The Code of Practice on Age Diversity in Employment is a voluntary set of Good Practice standards to help employers recognize the business benefits of an age-diverse workforce (June 1999).\(^\text{24}\)

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3. Id.
5. Id.
7. Id.
10. Id.
11. Moore, supra n.2, at 37.
12. Id. at 38.
14. Id. at 273.
15 Discrimination on the Grounds of Age: Overall Summaries by Member States of the EU
http://www.europarl.eu.int/en/discrimi/ssi/age/summaries/default.shtm#ITALY
16 Discrimination on the Grounds of Age: Overall Summaries by Member States of the EU
http://www.europarl.eu.int/en/discrimi/ssi/age/summaries/default.shtm#LUXEMBOURG
17 Id.
18 Discrimination on the Grounds of Age: Overall Summaries by Member States of the EU
19 Discrimination on the Grounds of Age: Overall Summaries by Member States of the EU
http://www.europarl.eu.int/en/discrimi/ssi/age/summaries/default.shtm#PORTUGAL
20 McDonald, supra n.9, at Table II.
21 Moore, supra n.2, at 53.
22 Id.
23 Id. at 57.
24 http://www.agepositive.gov.uk/codeOfPractice.cfm?sectionid=90