

**Fourth Study Commission
Public and Social Law**

QUESTIONNAIRE 2009

AGE DISCRIMINATION

Introductory remarks:

The following Questionnaire deals with different topics of labour law, with a special focus on age discrimination. One of the main objectives of this questionnaire is, to obtain some impressions of the approach of national labour law systems regarding age discrimination. It is also important to keep in mind that there may be different provisions for different groups of employees for example civil servants and other persons working for government or public authorities under ordinary contracts of employment or farm laborers, persons working on board of ships or for religious communities or teachers. Exceptions or specific provisions regarding these groups should be mentioned. Statutory or other differences in treatment of men and women concerning age discrimination should also be mentioned

- 1.a. General, are there rules against age discrimination which have constitutional status? What do these rules say precisely, and how do they work at lower levels of law making?

- 1.b. Which international agreements and conventions dealing with age discrimination has your country ratified ?

1. c. What are the main sources of law against age discrimination ?

1. d. Are collective agreements bound by this provisions ?

1. e Which groups are protected by these provisions, young employees, older employees or is it just forbidden to consider age as a decisive factor for working conditions ?

- 2 Please specify, what are the criteria according to which it is determined that it is an unlawful age discrimination (i.e. relevancy of the age to the nature of the job) ?

3. Do you have provisions stating minimum or maximum age for hiring employees ?

4. Do you have provisions stating minimum or maximum age for entering pension

funds systems ?

5. Have you got collective regulations or statutory provisions, which give certain protections or certain allowances only if the employee has achieved a certain age ? Describe them.
6. Does the computation of wages depend on the age of the employee ? Describe this.
7. Does the duration of holiday or the pay during sickness depend on the age of the employee or on seniority or both ?
8. Are there any provisions for elder employees, which entitle them to a reduction of working hours ? Describe them.
- 9.a. Is it allowed to terminate an employment relationship (dismiss), due to the employees age ? If Yes –which age ?
 - b. Is it allowed to terminate an employment relationship (dismiss), because the employee is entitled to get an old-age pension ? If Yes –at which age ?
10. Have you got provisions in your labour law system, which have the purpose to promote the vocational integration of unemployed older employees or young employees and in order to do so weaken their statutory protection ?
For instance are there provisions which authorises the conclusion of fixed-term contracts of employment once the worker has reached a certain age? Do such provision exist for certain groups of employees ?
11. Have you got provisions which give special statutory protection in order to prevent the termination of employment contracts of older or young employees ?
12. What are the rules governing the burden of proof ?
13. Are there any administrative or criminal penalties ? Please give details.
14. What are the most common cases at court regarding age discrimination?

Final remarks : At the conference we also want to discuss the practical impact of age discrimination (How prevalent is age discrimination in your country? Are there any studies on this subject? Can you estimate the economic loss - if any - following age discrimination in your country, especially following the employment or non-employment (termination) of experienced elder workers?

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