

EU Case Law Developments on Age Discrimination

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ABSTRACT: The principle of non-discrimination on grounds of age has been declared an autonomous EU law principle by the European Court of Justice. This principle has been specified in a Directive, but its scope of application is currently limited to employment and occupational activities. The Directive protects both younger and older workers from being directly or indirectly discriminated due to their age. However, given the specificity of age as a factor of discrimination, the Directive allows the Member States to apply some derogations to this principle if, within the context of national law, they are objectively and reasonably justified by a legitimate aim.

In the present contribution, we intend to analyse the Court's application and interpretation of the principle of non-discrimination on grounds of age as established in the Directive and comment on some of the most relevant preliminary rulings. In many of these rulings, the Court was asked whether the Directive precludes national norms which establish a mandatory retirement age or foresee the termination of the employment contract when the worker reaches a certain age.

The Court's interpretation of the principle of non-discrimination on grounds of age, as established in the Directive, could contribute to easing some of the EU's current economic, social and demographic challenges and to the improvement of European workers' lives; however, the Court seems to accept Member States' derogations to this principle too easily.

KEYWORDS: Age discrimination – youth unemployment – labour market – employment policy – intergenerational balance

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