



Commissie **Gelijke** Behandeling

# **Age Discrimination: Issues Arising in Practice**

Dr. Aart Hendriks

Trier, 5 June 2004



Commissie **Gelijke** Behandeling

## **Directive 2000/78/EC:**

**Prohibits age discrimination with respect to employment and occupation.**

### **Forms of age discrimination:**

- direct discrimination on grounds of age;**
- indirect discrimination on grounds of age;**
- harassment;**
- an instruction to discriminate on grounds of age**



Commissie **Gelijke** Behandeling

**But what is age?**

- 1. Numerical age (25 years)**
- 2. Qualifications related to calendar age (young, old, recently graduated)**
- 3. Bio-medical criteria (puberty, fertile, menopause)**



Commissie **Gelijke** Behandeling

**Legal protection is different:**

- 1. Direct discrimination can be justified (Article 6)**
- 2. Exception armed forces (Article 3 para. 4)**
- 3. Additional implementation period (Article 18)**



Commissie **Gelijke** Behandeling

**Main questions in relation to norms of directive**



Commissie **Gelijke** Behandeling

**Access to employment (job advertisement/description, selection criteria [experience; minimum and/or maximum age for recruitment], recruitment process, etc.)**



Commissie **Gelijke** Behandeling

**Age-related employment and working conditions (performance of specific tasks, remuneration/automatic salary increase [seniority principle], eligibility for bonuses, number of holidays, etc.)**

**Age-related criteria with respect employment and vocational training**



Commissie **Gelijke** Behandeling

## **Age-related dismissals (in individual/collective labour agreement or law versus seniority principle)**





Commissie **Gelijke** Behandeling

**Age criteria in occupational social security schemes  
(admission or entitlement to retirement or invalidity  
benefits.**



Commissie **Gelijke** Behandeling

**Conclusion: it remains to be seen how much protection can be derived from (laws based on) Directive 2000/78/EC to end age discrimination.**