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Discrimination

European legal framework

HOW TO REPORT A BREACH OF YOUR RIGHTS IF YOU ARE A VICTIM OF DISCRIMINATION – EUROPEAN LEGAL FRAMEWORK

What are the laws applicable in the European Union when it comes to discrimination based on ageism and sexual orientation and gender identity? How can I report it?

EUROPEAN LEGAL FRAMEWORK

The Charter of Fundamental Rights of the European Union completes, but does not replace, national constitutional systems or the system of fundamental rights protection guaranteed by the European Convention on Human Rights (ECHR).

Fundamental rights of LGBTI people and senior/older LGBTI people are protected in EU by:

Art. 21 EU Charter of fundamental rights: contains a non-discrimination provisions, based on diverse grounds, including sex, age and sexual orientation. Gender identity remains excluded.

Art. 25 EU Charter of fundamental rights: *“recognises and respects the rights of the elderly to lead a life of dignity and independence and to participate in social and cultural life.”*

Art. 19 Treaty on the functioning of European Union (TFEU) consent to take action against discriminations based on age and sexual orientation. Gender identity remains excluded.

Art. 8 ECHR: States that everyone has the right to respect for their privacy and family life.

Art. 14 ECHR: contains a prohibition of discrimination on various grounds. Even if this article does not list explicitly sex, age, sexual orientation and gender identity, these categories are included in the expression *“other status”*.

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Protection in the workplace:

In 2000, the EU approved the Council [Directive 2000/78](#) establishing a general framework for equal treatment in employment and occupation. The areas protected from discriminations include age and sexual orientation. Gender identity remains excluded.

What can I do if my fundamental and human rights are violated?

The European Union protects its citizens according to the principle of subsidiarity. This means that it only intervenes following the exhaustion of the remedies available at national level (whether they are implemented by [different bodies and institutions](#) such as government bodies, national courts, or bodies specialized in human rights, see below), according to [this scheme](#).

Human rights of European citizens are protected by the [European Court of Human Rights \(ECtHR\)](#) which intervenes in case of breach of the ECHR. Furthermore, the rights of European Union citizens are protected by the Charter of fundamental rights and the Treaty on the functioning of EU, as well as in any other case EU Law is applicable. For example, if an EU act violates the principle of non-discrimination, it is possible to appeal directly to the [EU Court of Justice \(CJEU\)](#) by a member state or a private person, if the act concerns it directly (in the case of an unlawful EU act, art. 263 TFE) or ask the national judge, before whom a case is pending in which that act can be invoked, to send it back to the CJEU so that before applying it, it can verify its validity (Reference for a preliminary ruling, art. 267 TFEU).

Furthermore, through the [e-justice portal of the EU](#), it is possible to find out which path to follow in case of violation of fundamental rights with an [interactive tool](#) available in all EU languages.

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