



**SiforAGE: Deliverable 4.3: Cross cultural comparison on the  
implementation of active ageing policies in an international and  
cross-cultural perspective**

**Work Package 4 Task 4.2**

**Evidence based public policy making**

**Active ageing and ageism in European policies: a cross-cultural  
comparison**

**The SiforAGE Consortium**

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LIST OF ABBREVIATIONS:

- AADL'S – ANTI-DISCRIMINATION LAWS
- NGOS – NON-GOVERNMENTAL ORGANIZATIONS

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## 1. Summary

This report targets the implementation of active ageing policies and the relevance attributed to anti-age discrimination laws (AADL's) in the European context. Our goal was to evaluate the implementation of AADL's in the actual practices prevailing in the ageing domain and it reflects the work conducted within Task 4.2. of the SlforAGE project, involving partners from five countries: Austria, France, Italy, Poland and Portugal.

To explore this issue, two strategies were adopted. First, we conducted a documental analysis of the main legislation regarding AADL's in Europe and in five countries using country reports elaborated by the European Network of Legal Experts in the Non-discrimination Field. This information allowed us to have an idea of the evolution of this legislation. Results were complemented also with information gathered by partners in each country. Results revealed that the five countries already incorporated AADL's in their legislation and most of them in more domains than just employment. Hence, results show that age discrimination is an important topic of legislation at both the European and country level. However, despite the increased effort from the legislative part, there seems to be some failures to guarantee the actual compliance with the existing laws in the countries analyzed. In this regard, legal experts in each country admit that there is currently a gap between existing legislation in the age discrimination and in the actual practices in this domain.

To further understand this issue, we followed a second strategy where we directly interviewed program planners and developers in three areas in the ageing field (labour, health, transport) regarding their knowledge of AADL's, perceived relevance of such laws and actual compliance of their practices with such laws. 42 interviews were considered valid for these effects. Results are encouraging showing that the majority of the program planners interviewed considered that age discrimination is a widespread phenomenon across several domains in society and AADL's are of high relevance in such a context in order to promote the fight against ageism regarding older people. Also, of fundamental importance, our results also showed that the majority of the programs under analyses are in compliance with such legislation by adopting different types of measures (e.g., inclusive age limits, actual efforts to fight ageism). Nevertheless, it is important to state that some interviewees also referred that there were some difficulties in understanding the existing legislation and that sometimes this appeared as isolated efforts with difficulties to reach a broader social change. In this regard, both the interviewees and the legal experts in document analyzed reflect upon the need to follow a more thorough strategy of involvement of different social actors (e.g., NGOs, public officers) in order to disseminate and encourage the adoption of AADL's in society. Based on the suggestions of the interviewees, in this report we give specific recommendations that could be of special significance in order to follow this strategy in the future.

This work represents a first effort to study how the actual implementation of AADL's occurs in the ageing domain in EU societies. It is a valuable complement to the work conducted by other EU initiatives (European Network of Legal Experts in the Non-discrimination Field) and should be further developed in the future.

## 2. Introduction

SiforAGE – Social innovation for Active and Healthy Ageing – project pursues to strengthen cooperation among the stakeholders working on active and healthy ageing.

The main goal of WP4 was to improve the inclusion of innovation aspects in public policy making procedures on active and healthy ageing, and the identification of the basis for evidence-based policymaking.

Nowadays, social challenges, like discrimination, are often the focus of international and European treaties that are then translated into national laws and public policies, aiming to affect national and local practices (Castro, 2012). However, it has already been shown for several domains, such as human rights or environmental issues (Oliveira, Batel & Amâncio, 2010; Castro & Batel, 2008), that even after the institutionalization of specific measures to be implemented towards social change in those domains, the generalization of the proposed changes in societies, that is, in the ideas and practices of institutions, groups and individuals, is generally a long process, often involving resistance (Castro & Batel 2008). In this process, expert mediating systems, that is, the several institutions and departments which have to deal with the translation of those goals and commitments to specific laws and public policies, have a crucial role on how those are aimed to transform the ideas and practices of groups and individuals (Castro & Batel, 2008). In Task 4.2., our goal was to analyze this issue by adopting two main routes:

**1) Documental analyses:** our goal was to analyze main documents and legislation regarding age-discrimination in a sample of European countries. One of the key organisms in charge of analyzing the compliance of anti-discrimination laws in Europe is the European Network of Legal Experts in the Non-Discrimination Field (<http://www.non-discrimination.net>). This consists of a network of legal experts in anti-discrimination to support the work of the European Commission by providing independent information and advice on relevant developments in the Member States. The network is managed by the Human European Consultancy and the Migration Policy Group (MPG) on behalf of the European Commission. It publishes information on legal developments in the non-discrimination field both at Member State and at European level. The relevant information can be accessed from their website both at European and country level (e.g., European legislation, national legislation and selected case law). In the website it is possible to find since 2006 annually published country reports regarding compliance with non-discrimination laws. These reports are not only specific to discrimination on the grounds of age, but they also provide information on this matter and represent crucial documents in this topic. For the sake of Task 4.2., our goal was to analyze these reports in order to gain important insights regarding the main anti age-discrimination laws in each country and the state of affair of its implementation at this moment in time. The information gathered by the analyses of these documents was complemented by information given by each of the SiforAGE partners involved in this task (GMK, EURAG, UPPA, CTORINNO, ISCTE-IUL). These

were asked specifically to develop a brief summary of anti-age discrimination laws in each of the countries under analyses (Portugal, Austria, France, Italy and Poland). This material was very important to complete the information presented in the reports and to give a global overview of legislation in each country.

**2) Narrative interviews with key stakeholders:** by interviewing key stakeholders involved in implementing active ageing programs and activities in different cultural backgrounds this allowed us to understand their reactions of promotion or change regarding legal requirements and innovation in the age-discrimination field (Batel & Castro, 2009). In Task 4.2., we studied the implementation of age-discrimination laws in five countries with partners actively participating in SiforAGE: Austria, France, Italy, Poland and Portugal. For the purpose of this work, it was also decided to focus this analyzes in three main content areas - labour, health and transport – and three levels of analyses – local, regional and national. For each program, we interviewed one person with technical knowledge on the program design and implementation (see Deliverable 4.2. for a more detailed and complete description of the sample under analyses). These results should be interpreted given these restrictions.

This report is organized in six main sections: objectives, background on European age-discrimination law, method, findings, main conclusions and recommendations and limitations and future work. Below we describe each of these sections with more detail.

### 3. Objectives

The objective of this task was to improve the inclusion of innovation aspects in public policy making procedures on active and healthy ageing, and the identification of the basis for evidence-based policymaking. In this specific task, it was of the utmost importance to analyze how the normative change regarding ageing – in this case regarding specifically anti-discrimination laws - was being proposed at the institutional level and how that might have impacted the ideas and practices of groups and individuals on that issue. This allowed us to understand compliance and adherence to age –discrimination laws in practice and provide recommendations that may help to foster this direction.

#### 4. Background on age discrimination law in Europe

“In 1997 the Member States of the European Union unanimously decided to add a new article to the Amsterdam Treaty: Article 13. This allowed the Council of the European

Union to adopt measures to combat discrimination on grounds of sex, racial or ethnic origin, religion or belief, disability, age and sexual orientation. After the entry into force of the Amsterdam Treaty on 1 May 1999, the Commission proposed, and the Council adopted unanimously measures to implement Article 13: a Directive covering discrimination on grounds of race and ethnic origin (Directive 2000/43/EC, the Racial Equality Directive) and a Directive covering discrimination on grounds of religion or belief, disability, **age** and sexual orientation in employment and occupation and in vocational training (Directive 2000/78/EC, the Employment Equality Directive).

With the entry into force of the Lisbon Treaty in 2009 the EU remains committed to combat discrimination and to promote equality (Article 19, ex-Article 13 TEC). Mainstreaming is introduced in all policies and activities of the EU with regard to discrimination on grounds of sex, racial and ethnic origin, religion or belief, disability, **age** and sexual orientation. The European Union Charter of Fundamental Rights of is now formally recognized as legally binding. According to EU Law, the European Commission is entitled to initiate infringement proceedings against Member States if they had failed to transpose EU directives into their national legal order or if sufficient or incorrect implementation had been done” (Retrieved from European Network of Legal Experts in the Non-Discrimination Field (<http://www.non-discrimination.net>)).”

Since December 2007 the European Commission created a group of experts - the European Network of Legal Experts in the Non-Discrimination Field (<http://www.non-discrimination.net>) – who aim to monitor the implementation of this anti-discrimination legislation in the several EU countries. This involves also specifically reflecting upon the implementation of anti-age discrimination laws in each country. This involves monitoring the implementation of age discrimination laws both in the employment field (by verifying the implementation of the Directive 2000/78/EC, the Employment Equality Directive), but also more recently outside of the employment field (see the report “*National protection beyond the two EU anti-discrimination directives*”[http://www.migpolgroup.com/wp\\_mpg/wpcontent/uploads/2013/12/final\\_beyond\\_employment\\_en.pdf](http://www.migpolgroup.com/wp_mpg/wpcontent/uploads/2013/12/final_beyond_employment_en.pdf) - for further information). In the next section we present a summary of the main European anti age-discrimination legislation provided by the legal experts in the SiforAGE project: UPPA. This is presented in the original format made available by UPPA.



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## 5. European anti age-discrimination legislation (contribution from Stéphanie Rabiller and Nathalie Calatayud, UPPA)

### The fight against discrimination

#### Within the framework of the EU

Currently, disability and age are **recognised as grounds for discrimination that are prohibited by EU directives exclusively** in the areas of **employment and occupation** (A). However, it appears that a broader concept is emerging (B).

#### 5.1. A limited scope: Employment

##### 5.1.1. *Equal pay*

According to Article 157 of the Treaty on the Functioning of the EU (TFEU), Member States shall ensure equal treatment in terms of pay. Equal treatment must also be ensured in other matters, for which the principles are defined under Directive 2006/54/EC of 5 July 2006. This text concerns the principle of equal opportunities and equal treatment between men and women in terms of employment and occupation.

##### 5.1.2. *Equal treatment between persons irrespective of racial or ethnic origin*

Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin:

The Directive applies to all persons and to all sectors of activity, in relation to:

- access to employment and self-employment, including during recruitment;
- working conditions, including promotion, pay and dismissals;
- access to vocational training;
- involvement in an organisation of workers or employers, or in any professional organisation ;
- **access to social protection and health care;**
- education;
- social advantages, access to goods and services, including housing.

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The Directive prohibits any:

**Direct discrimination** based on racial or ethnic origin: discrimination that occurs where one person is treated less favourably than another is, has been or would be treated in a comparable situation;

**Indirect discrimination** based on racial or ethnic origin : discrimination that occurs where an apparently neutral provision, criterion or practice would put a person at a particular disadvantage

compared with other persons, unless that provision, criterion or practice is objectively justified by a legitimate aim and the means of achieving that aim are appropriate and necessary;

**Harassment:** *“an unwanted conduct with the purpose or effect of violating the dignity of a person and of creating an intimidating, hostile, degrading, humiliating or offensive environment. The concept of harassment may be defined in accordance with the national laws and practice of the Member States”.*

Member States may also take positive action with a view to ensuring full equality in practice, and adopt national measures to prevent or compensate for disadvantages linked to racial or ethnic origin.

### 5.1.3. ***Discrimination on grounds of disability or age***

The fight against this type of discrimination began in 1999 (Amsterdam). Prohibiting discrimination on the grounds of age means that individuals cannot be treated less favourably on the sole basis of their age.

An overall framework is set out by Council Directive 2000/78/EC of 27 November 2000 establishing a **general framework for equal treatment in employment and occupation**. The Directive applies to both public and private sectors, including public bodies.

It also applies mainly to conditions for access to employment, to self-employment or to occupation, and access to all levels of vocational guidance, retraining and other forms of vocational training, and to dismissals.

In the same manner as Directive 2000/43/EC, it prohibits direct and indirect discriminations, and harassment.

It furthermore accepts discriminations based on genuine and determining occupational requirements.

Everything depends on the nature of the occupational activity, which determines whether a margin of appreciation is granted to the Member States. The text also

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indicates that discrimination on the grounds of age may be justified by certain measures. However, such measures must correspond to a legitimate objective of general interest, such as employment policy, and the means used must be proportional to the objective.

This may include, for example:

- the setting of special conditions on access to employment for young people and older workers;
- the fixing of minimum conditions of professional experience or seniority in service.

The text furthermore indicates the need to shift the burden of proof. Member States must therefore take necessary measures to ensure that when the injured party establishes facts from which it may be presumed that there has been discrimination, the respondent must prove that there has been no breach of the principle of equal treatment.

The Court of Justice has developed a body of case law relating to **discrimination on the grounds of age**.

In a judgment handed down on **12 January 2010 (Wolf)**, the Court considered that a difference in treatment on grounds of age for the employment of fire-fighters was justified by a “***genuine and determining occupational requirement***”.

In a judgement handed down on **6 December 2012 (Johann Odar)**, the Court held that social plans could contain measures that are less favourable for **older** employees on the grounds that such employees are due to claim an old-age pension. It is generally flexible in its decisions on whether a legitimate objective justifies discrimination, particularly in the case of the encouragement of recruitment, which “*constitutes a legitimate aim of Member States’ social or employment policy, in particular when the promotion of access of young people to a profession is involved*”, CJEU **21 July 2011 (Fuchs and Köhler)**.

As regards **disability**, the Court developed the concept of “**discrimination by association**”. A worker employed as a secretary at a legal office gave birth to a disabled child in 2002. The child required specialised care which was provided by the worker. While in the process of taking voluntary redundancy in 2005, she brought her case before the Court.

She claimed that her resignation was influenced by factors linked to the disability of her child (unpleasant comments, refusal of flexible working arrangements etc.).

According to the Court of Justice, “*where an employer treats an employee who is not himself disabled less favourably than another employee is, has been or would be*

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*treated in a comparable situation, and it is established that the less favourable treatment of that employee is based on the disability of his child, whose care is provided primarily by that employee, such treatment is contrary to the prohibition of direct discrimination”.*

**The Court was asked to define the concept of disability and decide whether it also covered illness.** In an initial judgement in 2006, it responded in the negative.

On **11 April 2013 in the HK Denmark case (CJEU 11 April 2013, Second Chamber, Joined cases C-335/11 and C-337/11)**, the Court held that the concept included **“a condition caused by an illness medically diagnosed as curable or incurable where that illness entails a limitation which results in particular from physical, mental or psychological impairments which in interaction with various barriers may hinder the full and effective participation of the person concerned in professional life on an equal basis with other workers, and the limitation is a long-term one”**. For the Court, disability can therefore also be defined as a **curable or incurable illness entailing a physical, mental or psychological impairment.**

According to the judge, it makes no difference whether or not the use of special equipment is necessary, as the nature of the accommodation measures to be taken by the employer does not determine the existence of a disability. Reduced working hours may constitute an appropriate and reasonable accommodation measure in response to a worker with a disability caused by a **curable or incurable illness entailing a physical, mental or psychological limitation.** According to CJEU press release No. 42/13 of 11 April 2013, *“A curable or incurable illness entailing a physical, mental or psychological limitation may be assimilated to a disability”*.

This comprehensive concept is in line with developments in legislation.

## 5.2. A broader scope

**On the one hand, Article 21 of the Charter of Fundamental Rights,** which is applicable to EU institutions and Member States when they implement EU law, prohibits *“any discrimination based on any ground such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation”*.

**On the other hand,** for over three years now, debates have been held regarding a text which would extend this prohibition beyond the field of employment and occupation, on the basis of Article 19 of the EU Treaty.

The proposal for a Council Directive on implementing the principle of equal treatment between persons irrespective of religion or belief, disability, age or sexual orientation covers the areas of social protection (including social security and health care), social advantages, education and access to and supply of goods and services, such as housing and transport. The principal of equal treatment corresponds to the prohibition of direct and indirect discrimination set out in other directives. (**European Parliament legislative resolution of 2 April 2009 on the proposal for a Council Directive on implementing the principle of equal treatment between persons irrespective of religion or belief, disability, age or sexual orientation** ([COM\(2008\)0426 – C6-0291/2008](#) – [2008/0140\(CNS\)](#); see also <http://www.europarl.europa.eu/sides/getDoc.do?type=REPORT&reference=A6-2009-0149&language=EN>)

The latest debate was held in December 2011 before the Council ([http://europa.eu/rapid/press-release\\_PRES-11-471\\_en.htm?locale=en](http://europa.eu/rapid/press-release_PRES-11-471_en.htm?locale=en); see also <http://register.consilium.europa.eu/doc/srv?l=EN&t=PDF&qc=true&sc=false&f=ST%2016525%202011%20INIT>).

DEBATE: " *General exception for age (Article 2, paragraph, Article 3, and considering No. 14bis): Aiming to improve legal certainty, so that certain justifiable differences of treatment would continue to be allowed under the Directive, the Presidency suggested two possible approaches : applying the presumption of justification to age limits established by national law, but clarifying it in the recitals (Option A), and excluding ages limits in social protection, healthcare and education from the scope (Option B). Many delegations expressed a preference for Option B. Others preferred Option A, as did the Commission representative*". The Polish Presidency is currently making progress regarding the definition of discrimination on the grounds of age as a factor of discrimination factor.

### 5.2.1. **Within the framework of the echr**

According to **Article 14 of the ECHR**: "*The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status*".

Discrimination on the grounds of age is therefore not covered by Article 14 in conjunction with another fundamental right under the ECHR. Nevertheless, the Court

has a **comprehensive interpretation of the grounds** set out in Article 14. It considers that age is covered by the term **“other status”** contained in Article 14 cited above (*ECHR Schwizgebel v Switzerland; ECHR T. v United Kingdom and V. v United Kingdom; ECHR D.G. v Ireland and Bouamar v Belgium*).

According to the ECHR, “a distinction made on account of one’s **health status**, including such conditions as HIV infection, should be covered – either as a form of disability or alongside with it – by the term **“other status”** in the text of Article 14 of the Convention”. *Discrimination on the basis of health status and the dismissal of a worker affected by HIV, ECHR 3 October 2013, I.B. v Greece, Application. No. 552/10 unprecedented, Revue de droit du travail (Labour law review) 2014 p. 120; Actualité de la Convention européenne des droits de l'homme (European Convention on Human Rights news) — Burgorgue-Larsen Laurence — AJDA 2014. p. 147*

**In addition**, the Council of Europe adopted two resolutions on 26 June 2013 regarding “Equal access to health care”. Although these texts are only resolutions, they are related to the prohibition of all types of discrimination (2020 and 1946). Resolution **1946**, which calls for Member States to reduce inequalities in access to health care, refers specifically to older persons as a vulnerable category;  
<http://assembly.coe.int/ASP/Doc/XrefViewPDF.asp?FileID=19991&Language=EN>

See also:

[https://wcd.coe.int/ViewDoc.jsp?Ref=CM/Rec\(2014\)2&Language=lanEnglish&Ver=original&Site=COE&BackColorInternet=C3C3C3&BackColorIntranet=EDB021&BackColorLogged=F5D383](https://wcd.coe.int/ViewDoc.jsp?Ref=CM/Rec(2014)2&Language=lanEnglish&Ver=original&Site=COE&BackColorInternet=C3C3C3&BackColorIntranet=EDB021&BackColorLogged=F5D383)

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[http://www.cairn.info/resume.php?ID\\_ARTICLE=GS\\_111\\_0207](http://www.cairn.info/resume.php?ID_ARTICLE=GS_111_0207)

<http://www.age-platform.eu/age-policy-work/anti-discrimination>

[http://www.echr.coe.int/Documents/Handbook\\_non\\_discri\\_law\\_FRA\\_01.pdf](http://www.echr.coe.int/Documents/Handbook_non_discri_law_FRA_01.pdf)

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### **National law**

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- Barlet M, Bigard M, Collin C and Lévy D. *Offre de soins de proximité ne rime pas toujours avec accessibilité, Etudes et résultats* [Provision of local health care does not always go hand in hand with accessibility : Studies and results], No. 817, October 2012

## 6. Method followed in the present report

This report targets a documental analysis of the country reports regarding anti age-discrimination laws and the qualitative analysis of interviews with key informers in ageing program design and implementation.

### 6.1. *Documents*

To analyze anti age-discrimination laws in the five countries we analyzed the most recent country reports provided by the European Network of Legal Experts in the Non-discrimination Field. These refer to each country's situation as of January 1<sup>st</sup>, 2013. Country reports were retrieved from the website (<http://www.non-discrimination.net>). These reports were analyzed in order to identify the main anti age-discrimination laws in each country. Because these reports focus exclusively in the analyses of the Directive 2000/78/EC, the Employment Equality Directive, targeting the employment field, we also looked for other documental evidences regarding anti age-discrimination laws in other fields. This information was gathered in the report "*National protection beyond the two EU anti-discrimination directives*"[http://www.migpolgroup.com/wp\\_mpg/wpcontent/uploads/2013/12/final\\_beyond\\_employment\\_en.pdf](http://www.migpolgroup.com/wp_mpg/wpcontent/uploads/2013/12/final_beyond_employment_en.pdf). Finally, as already referred this information was complemented with the reports regarding anti age-discrimination laws in each country provided by the partners involved in this task.

### 6.2. *Interviews*

Interviews were obtained from 5 countries that participated in the WP4: Austria (N=11), France (N=7), Italy (N=11), Poland (N=10) and Portugal (N=11), for a total of 50 interviews, carried out between January and March 2014. Interviewees were recruited through purposeful sampling. Sampling goals targeted projects at three levels of intervention (national, regional, local) and focusing of health, transport and labour domains. In order to achieve these goals, a project leader or associate carried out an extensive internet search within these domains and invited participants for the interview. The interviews were carried out by in-country project leader or project associates. SiforAGE partners involved in interview collection were: GMK (Poland), EURAG (Austria), CARINNA and UPPA (France), CTORINNO (Italy) and ISCTE-IUL (PORTUGAL).

The interview was structured and consisted of twenty one questions (see Deliverable 4.2. for a full description of the script). For this specific report, three questions were analysed from the original interview script (Appendix 1):



- [Q14] *Do you think that projects in this domain respect these anti-age discriminatory laws?*
- [Q15] *What do you think about anti-age discrimination laws in general? Why?*
- [Q16] *Do you think that this specific project is compliance with anti-age discriminatory laws? Why?*

Eight interviewees did not respond to the specific questions target in this report. Hence, the findings described from the qualitative analysis of the interview reflect the responses of 42 interviewees Portugal (N=11), Italy (N=11), Austria (N=10), Poland (N=8) and France (N=2). Interviews were carried out at the local (N=13), regional (N=15), and national levels (N=14) (see Table 1). Also, interviewees were recruited among projects targeting health (N=17), transportation (N=6), labour (N=9), health & transport (N=4), health and work (N=5) or social (N=1).

<b>Table 1. Sample of interviews</b>	
<b>Valid interviews</b>	<b>N</b>
Level	
<i>National</i>	14
<i>Regional</i>	15
<i>Local</i>	13
Domain	
<i>Health</i>	17
<i>Labour</i>	9
<i>Transportation</i>	6
<i>Labour &amp; Health</i>	5
<i>Health &amp; Transportation</i>	4
<i>Social</i>	1

Interviews were transcribed and translated in the countries where they were carried out. The qualitative data analysis of the interviews was performed by a psychologist proficient in qualitative analysis. The chosen strategy for data analysis was thematic analysis (Braun & Clarke, 2006), which allowed for a bottom-up search for themes and patterns in the data, without a specific concern for one particular theoretical approach. Initial themes were identified in the interview transcripts and organized into categories. Through this bottom-up coding, thematic analysis allows the researcher to aggregate similar themes into cluster categories and includes the interpretation of data, also allowing the identification of similarities and differences

across interviewees. The coding processes were carried out through the software QSR NVivo 10.

## 7. Findings

### 7.1. An analysis of country reports – documental analysis

The documental analyses regarding anti age-discrimination laws and the information provided by partners allowed us to identify the main laws in each country. For the purposes of this report, it was also important to understand their coverage regarding fields of application. On one hand, it was important to understand whether they covered employment aspects as required by the Directive 2000/78/EC. On the other hand, it was also fundamental to understand the degree in which they also covered other fields. Finally, we also analyzed the situation of compliance with these laws in each one of the countries under analyzes. Table 2 presents a summary of the main findings regarding each country.

As can be observed in the table 2, all the five European countries analysed have laws regarding the anti-discrimination based on age. In these anti-discrimination laws, age is just one of the various grounds contemplated in a sense that they are general laws.

All the five countries have specific anti-discrimination laws regarding work which is, clearly, the most valued field in this context. These laws prohibit the discrimination based on age regarding the public and private employment. In a more specific way, these laws intend to promote equality regarding the access to job opportunities, career progression and salary increase to all employees independently of their age. Besides, they prevent situations in which injustices occurs like, for example, the unfair dismissal based uniquely employee's age.

In the particular case of Austria, this country has more specific laws regarding anti-discrimination based on age, referring to specific contexts of employments such as agricultural and forestry workers and also teachers. On a similar vein, the French government had also demonstrated a proactive approach regarding this issue, in a sense that they created a scheme to support the employment of workers over 50 years old.

Beyond work, most of the countries under analyzes also have anti-discrimination laws based on age that covered other fields like social protection, social advantages (advantages of an economic and cultural nature which may be granted by both private and public entities), education, goods & services and housing. In the "National protection beyond the two E.U. Anti-discrimination Directives" report, Portugal and Austria are described as countries that have anti-discrimination laws based on age which covered all the fields presented above. In the case of Austria, social protection, social advantages and education are assured by private bodies and by provincial governments.

In France, there are anti-discrimination laws covering the fields of social advantages, goods & services housing and there is some uncertainty regarding the grounds of social protection and education. In the case of Poland, these laws cover, beyond work, the field of social security system.

Italy is described as a country with anti-discrimination laws regarding age that do not cover other fields beyond work. Perhaps, this situation is related to the comment of the legal expertise (Chiara Favilli) author of the national report of Italy regarding anti-discrimination: “*Discrimination on the grounds specified by the Directives is not a significant subject in Italian legal and political debate.*” In fact, in Italy, age discrimination in the provision of financial services, for example, is regulated only by general rules on equality and not by anti-discrimination laws.

In a general way, we can admit that the five European countries analysed are developing efforts to progressively extend the cover of the anti-discrimination laws regarding age to more fields beyond work.

Regarding the compliance of the anti-discrimination laws based on age, the table presented below show significant citations from the authors of the national reports in the European network of legal experts in the non-discrimination field (with exception of the commentary regarding the Austria case). In a general way, we can conclude that there is a gap between legislation and the practical implementation of these laws. According to the legal experts for each country, the reasons for that may be possibly related to the complexity of the legal framework, the low awareness and knowledge of legislation addressing discrimination issues and the absence of a specialized body on this field. In a more concrete way, the experts highlight the importance of developing a coordinated work between different institutions of important areas of action like ONG’s, social scientists, public administrations and trade unions in order to increase the level of compliance of anti age-discrimination laws. Legal experts believe that this approach is absolutely necessary because discrimination issues should be addressed in a more coordinated and integrated way in order to produce a change in society.

**In sum, the documental analyses allowed us to reach fundamental conclusions regarding anti age-discrimination laws both at the European and country level:**

- i) the introduction of Article 13 in the Amsterdam Treaty in 1997 was fundamental to start the process of creation of anti age-discrimination legislation in Europe. Following up on that, the introduction of the UE Directive 2000/78/EC was fundamental to increase awareness and compliance with non-discriminatory age practices in employment across the EU countries.**
  
- ii) The countries under analyzes have adopted the recomendations of the Directive 2000/78/EC regarding anti age-discrimination in employment in**

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**some format in their legislation and also most of them have also extended these anti age-discrimination legislation to cover other fields (e.g., social security).**

- iii) However, despite this increase in available legislation, legal experts from the five countries agree that the level of compliance with these laws is still lower than desirable and that a true effort of their implementation should involve a greater effort of coordinated work between different institutions of important areas of action in society (e.g., ONG's, social scientists, public administrations and trade unions).**

Table 2. Summary of anti age discrimination laws in each country under analyses				
Countries	Anti- age discrimination laws	Employ	Other fields	Compliance with the laws
Portugal	<p><b>Constitution of the Portuguese Republic:</b> article 13 – the principle of equal treatment and prohibition of discrimination based on a variety of grounds, including age.</p> <p><b>Labour Code:</b> article 24 – forbids the practice of any direct or indirect discrimination, based on a variety of grounds, including age.</p>	YES	Social protection, Social advantages, Education, Goods & Services, Housing.	<p>“The biggest problem in Portugal is the GAP between legislation and its practical implementation. The manner in which the Directives have been transposed is very problematic, causing difficulties concerning procedures and raising many doubts regarding interpretation.”</p> <p>Portugal has included in his legislation an obligation on employers to inform employees of discrimination laws.</p>
Austria	<p><b>Equal Treatment Act:</b> protects against discrimination in employment on a variety of grounds, including age.</p> <p><b>Federal-Equal Treatment Act:</b> It covers (Federal) public employment and protects against discrimination on a variety of grounds, including age.</p> <p>Prohibition of direct and indirect discrimination on a variety of grounds, including age in the field of public employment Laws: <b>Styrian Equal Treatment Act, Styrian Provincial Law Gazette Nr. 66/2004 last amended by Nr. 81/2010;</b> <b>Tyrolian Equal Treatment Act, Tyrolian Provincial Law Gazette Nr. 1/2005 ala Nr.</b></p>	YES	Social protection, Social advantages, Education, Goods & Services, Housing	<p>“Even though the anti-discrimination legal framework in Austria is rather comprehensive its implementation is not yet satisfactory. This stems mainly from two facts: on the one side the whole legal framework is very complex with its close to 40 pieces of law to be observed and on the other side public awareness and sensitivity in matters of discrimination and the knowledge about anti-discrimination legislation is rather low.”</p>

	<p><b>39/2008; Viennese Service Order as amended by Viennese Provincial Law Gazette Nr.42/2006 as last amended by Nr,22/2011;;</b></p> <p><b>Lower Austrian Equal Treatment Act, Lower Austrian Provincial Law Gazette Nr. 69/1997 as amended by Nr. 109/2011;;</b></p> <p>Prohibition of direct and indirect discrimination on a variety of grounds, including age in the field of Employment of agricultural and forestry workers Laws:</p> <p><b>Styrian Agricultural Labour Relations Act, Provincial Law Gazette Nr. 39/2002 as amended by Nr.46/2011;;</b></p> <p><b>Viennese Agricultural Labour Equal Treatment Act,Viennese Provincial Law Gazette Nr. 25/1980, as last amended by Nr.13/2010;;</b></p> <p><b>Lower Austrian Agricultural Labour Relations Act, Lower Austrian Provincial Law Gazette Nr. 185/1973 as amended by Nr. 112/2011;;</b></p> <p><b>Carinthian Agricultural Labour Relations Act,Carinthian Provincial Law Gazette Nr. 97/1995 amended by Nr. 60/2006 last amended by Nr. 64/2011;</b></p> <p><b>Upper Austrian Agricultural Labour Relations Act, Upper Austrian Provincial Law Gazette Nr. 25/1989 as amended by Nr. 73/2005 last amended by Nr.62/2011;</b></p> <p><b>Salzburgian Agricultural Labour Relations Act, Provincial Law Gazette Nr. 7/1999 as amended by Nr. 66/2011;</b></p> <p><b>Tyrolian Agricultural Labour Relations Act, Tyrolian Provincial Law Gazette Nr. 27/2000 as amended by Nr. 61/2005, last amended by Nr- 77/2011;</b></p> <p><b>Burgenlandian Agricultural LabourRelations Act, Provincial Law Gazette Nr. 37/1977, last amended by Nr. 63/2010.</b></p>			
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	<p><b>Viennese Anti-Discrimination Act, Viennese Provincial Law Gazette Nr. 35/2004 ala VPLG Nr. 44.2010:</b> prohibition of direct and indirect discrimination on a variety of grounds, including age in the field of non-employment scope of Directive 2000/43/EC.</p> <p><b>Lower Austrian Anti-Discrimination Act, Viennese Act Lower Austrian Provincial Law Gazette Nr. 45/2005 ala Nr. 113/2011:</b> prohibition of direct and indirect discrimination on a variety of grounds, including age in all forms of Discrimination which are not covered in the Lower Austrian Equal Treatment Act.</p> <p><b>Carinthian Anti-Discrimination Act, Carinthian Provincial:</b> prohibition of direct and indirect discrimination, harassment, victimisation based on age and other grounds on the field of public employment and non-employment scope.</p> <p>Prohibition of direct and indirect discrimination, harassment, victimization based on a variety of grounds, including age on the fields of Public (provincial) employment, goods &amp; services, education, social matters (soziales), health laws: <b>Upper Austrian Anti-Discrimination Act, Upper Austrian Provincial Law Gazette Nr. 50/2005 ala Nr. 60/2010;</b> <b>Salzburg Equal Treatment Act, Provincial Law Gazette Nr. 31/2006 as amended by Nr. 66/2011;</b> <b>Vorarlbergian Anti-Discrimination Act, Provincial Law Gazette Nr.</b></p>			
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	<p><b>17/2005 ala Nr. 49/2008; Burgenlandian Anti-Discrimination Act, Provincial Law Gazette Nr. 84/2005 ala by Nr. 17/2010;</b></p> <p><b>Tyrolian Anti-Discrimination Act, Tyrolian Provincial Law Gazette Nr. 25/2005 ala Nr. 41/2008:</b> prohibition of direct and indirect discrimination, harassment based on age and other grounds on the field of goods &amp; services, education, social matters, health reasonable accommodation for disabled persons.</p> <p><b>Tyrolian Equal Treatment Act for Municipalities, Tyrolian Provincial Law Gazette Nr. 2/2005 ala Nr. 40/2008:</b> prohibition of direct and indirect discrimination, harassment, victimisation based on age and other grounds on the field of Public employment in municipalities.</p> <p><b>Tyrolian Provincial Teachers Employment Act , Tyrolian Provincial Law Gazette Nr. 74/1998, last amended by Nr. 75/2011:</b> provincial specialised institution for teachers in the scope of Employment of provincial teachers.</p>			
<p>France</p>	<p><b>Article 19 par.1:</b> prohibition of discrimination based on age and other grounds.</p> <p><b>Article 225-1:</b> considers as discrimination any distinction between natural persons based on a variety of grounds, including age.</p> <p><b>Law no 2005-901 of August 2, 2005:</b> Remove age limits</p>	<p>YES</p>	<p>Social protection (uncertain),                  Social advantages,                  Education (uncertain),</p>	<p>“There are many barriers to systematic implementation in France. Legal action is not considered as a legitimate mean of advocacy. Very few NGOs are knowledgeable in the management of judicial recourses or have the means to pursue judicial cases. Social scientists who work on discrimination issues are not familiar with legal definitions. Moreover, Trade Unions are not mobilized on discrimination and seldom support</p>



	<p>for recruitment in the public sector in the field of employment public sector.</p> <p><b>Decree no 2009-560 of 20 May, 2009:</b> government created a positive action scheme to support the employment of workers over 50 years of age.</p> <p><b>Article L5331-2 LC:</b> forbids making an offer of employment containing a limitation of age that would not otherwise be imposed by law.</p>		<p>Goods &amp; Services, Housing.</p>	<p>workers facing discrimination problems.”</p>
<p>Italy</p>	<p><b>Decreto legislativo 9 luglio 2003, n. 216 Directive on equal treatment in the field of employment and working conditions’, published in Gazzetta Ufficiale no. 187 of 13 August 2003):</b> Prohibition of direct and indirect discrimination regarding the ground of age on Public and Private Employment.</p> <p><b>Additional rules to the Civil procedural code regarding reduction and simplification of the Civil procedures according to Art. 54 of Law 18 June 2009, no. 69:</b> Abolition of the previous special anti-discrimination procedure provided by article 44 of Legislative Decree 286/1998 and application of the general fast-track procedure to all anti-discrimination complaints on the field of procedural law.</p> <p><b>Provisions on the protection of the freedom and dignity of workers, on freedom of trade unions and their activity in the work place, and on employment’ published in Gazzetta Ufficiale, 27 May 1970, n. 31, Article 15):</b> Unfair dismissal and discrimination on the working place regarding age and</p>	<p>YES</p>	<p>NO</p>	<p>“Discrimination on the grounds specified by the Directives is not a significant subject in Italian legal and political debate. As a result of the low priority attributed to discrimination by social and political actors, limited empirical research on the dimension of the actual problems has been carried out compared to the major European countries.”</p> <p>“Awareness-raising of the grounds of discrimination which fall outside the competence of UNAR is more problematic, since the absence of a specialised body leaves the dissemination of information to ordinary authorities, which as yet seem to have been quite passive.”</p>

	<p>other grounds on private employment.</p>			
<p>Poland</p>	<p><b>Act of 13 October 1998 on the Social Security System (Art.2a.1.)</b> amended by the 2010 law on Equal Treatment lists several fields, including age.</p> <p><b>Act on the Implementation of Certain Provisions of the European Union in the Field of Equal Treatment (Almost verbatim implementation of 5 Directives, including 2000/43 and 2000/78):</b> Prohibition of direct and indirect discrimination, instructions to discriminate harassment and victimisation regarding age and other grounds.</p> <p><b>Act on Labour Code:</b> Prohibition of direct and indirect discrimination instructions to discriminate harassment and victimisation; regarding age and other grounds on labor relations.</p> <p><b>Act on Commissioner for Civil Rights Protection:</b> Designation of Commissioner for Civil Rights Protection (Ombud) as an equality body on several fields, including age.</p>	<p>YES</p>	<p>Social Security System.</p>	<p>“Discrimination because of age is the newest phenomenon in Polish context. In the last couple of years activities of the Ombudsperson as well as some court rulings prove that this new concept finds its place and that awareness of people of age grows, slowly but consequently.”</p> <p>“It is still necessary to develop further forms of cooperation between the public administration and NGOs, going beyond the existing framework of dialogue, as well as involving social partners in debate on the topic.”</p>

## 7.2. Interview data analysis

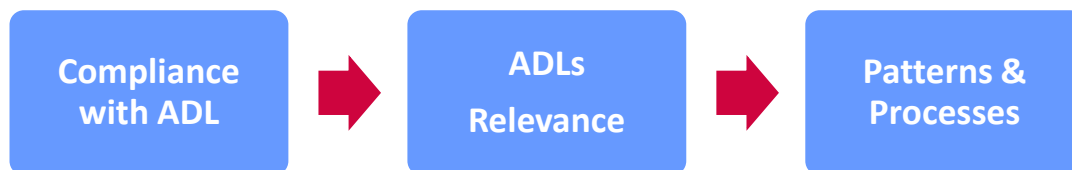
*In the description of results, numbers in brackets represents the number of interviewees coded at that category, and after a quote, expressions within square brackets identify the participants' country and number (i.e.: [PL6] participant number 6 in Poland<sup>1</sup>). The goal of this analysis was to identify the main issues raised when interviewees think about anti age-discrimination laws in general in their countries and specifically in intervention programs in the aging field (in general and in their specific case). Our goal is not to present these analyses emphasizing country differences, but rather to have a global idea of how these anti age-discrimination laws are being implemented in intervention programs in the aging field in a European context. In this regard, it is of fundamental importance to keep in mind that these results are based on a convenient sample and so they should be interpreted with caution regarding their level of generalization to the country's global practices. Nevertheless, they represent good practices that are being developed in the European context and so they may provide useful information for increasing awareness and future compliance with anti-age discrimination laws in the future. As far as we know this is the first time that such an effort has been attempted in this way, so it represents a significant effort of addressing this issue near civil society.*

Following a bottom-up approach, analyses of the answers to the three questions regarding anti age-discrimination laws revealed three main categories: 1) Compliance with anti-age discriminating law's (AADL's): the degree in which the programs under analysis follow these laws; 2) Relevance of AADL's: reflections upon the importance of these laws in general and in the programs under analysis; and 3) Patterns and processes of age discrimination: examples of situations where this type of discrimination occur and where these laws could be important. It also refers to suggestions to increase compliance with AADL's in the future (see Fig.1). While all respondents addressed the issue of compliance with AADL's (43), approximately two-thirds of the sample (29) referred to the relevance of AADL's and about a third addressed themes concerning the processes and patterns of age-discrimination (15).

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<sup>1</sup> AU=Austria; FR= France; IT=Italy; PL=Poland; PT=Portugal.  
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**Fig.1. Main categories gathered from interviews with key informers**



Some differences were identified between levels of intervention (national, regional or local). Regarding compliance, interviewees at the regional level stated more frequently that their project were compliant with ADL's (36) than participants at a national (20) or local level (18).

As for the perceived relevance of anti-age discrimination laws, interviewees within projects and institutions at the national level reported ADL's as highly relevant (9) more frequently than interviewees at the regional level (2).

Regarding patterns and processes of discrimination, interviewees at the regional level spoke more frequently of the prevalence of discrimination in several contexts (14), as compared to national (7), or local levels (3).

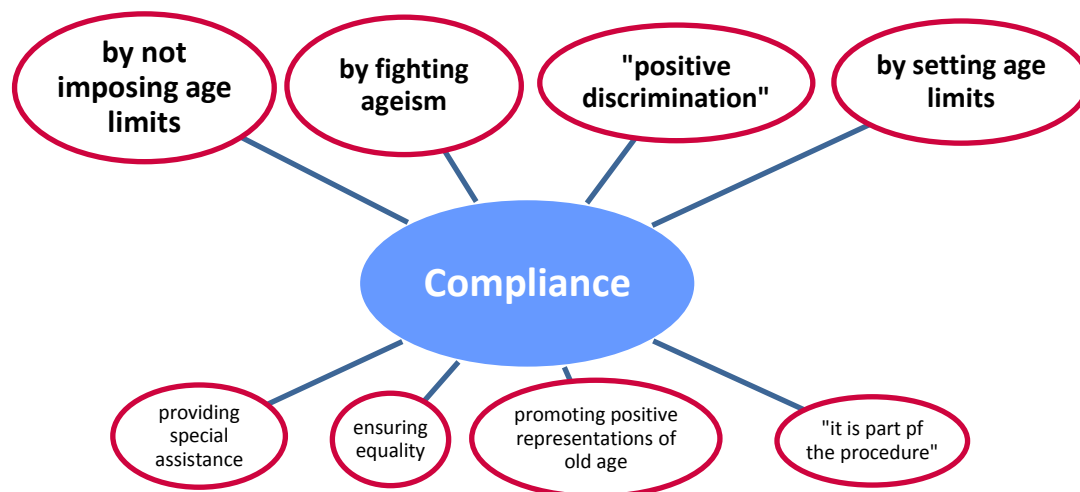
No further group differences were identified regarding levels of intervention or domain of intervention. Although it is important to recognize these differences, it is not possible at this moment to advance any further explanation of these findings. These should be further investigated in depth in the future taking into consideration the characteristics of the specific programs under analysis. For the time being, we will not make reference to these differences in the description of the results that follow.

### 7.2.1. Compliance with anti-age discriminating law's (AADL's)

The majority of interviewees state that the specific project for which they were interviewed for is in compliance with AADL's (40), either through more active or passive strategies regarding anti-age discrimination. This compliance is most frequently operationalized, according to interviewees in different formats (see Fig.2): by not imposing age limits in the specific project (9); by actively fighting ageism (8); by engaging in positive discrimination (7) or by setting age limits (6).

Interviewees also referred other, less frequent forms of compliance, such as providing special assistance for older persons(3) or ensuring equal access (3), usually to public transportation or health care.

**Fig. 2. Main forms of project compliance with anti-age discrimination laws**



Interviewees referred the strategy of not imposing age limits to program participation as an effective form of AADL's compliance and this was the most frequently referred form of compliance. However, imposing an age limit in order to address the program specifically to older persons appears to be a more active stance towards anti-discrimination - *"it is directly addressed to people 55-65"* [IT6]; *"It is evident that the program specifically addressed to the 60+ envisages only those who actually fall within this particular age category as its direct beneficiaries"* [PL5] – than not imposing an age limit: *"programmes are addressed to **all** adults"* [AU4]; *"The age of the target group is 55 years plus, there is no age control"* [AU8].

However, the establishment of the limit in itself also implies a numerical definition of 'old age' that some participants appear to question:

*"No, there is no such thing as a threshold of old age (...) Although until very recently 65 years of age was generally regarded as such a threshold (...) the preparations for reaching one's old age should best be started some time ahead of that point. It should perhaps be borne in mind that people nearing their sixties also tend to bow out of the labour market. So we might just as well stick to this 60+ as a working guide mark. But (...) we had no choice and such a threshold had to be determined (...) Otherwise it would have been impossible to have it approved, if such an age demarcation line was set at , 45 or 50 years of age."* [PL5]

Other interviewees reflect on how issues of disability, compromised health or even gender can alter the perceptions of 'old age', particularly regarding being perceived as an asset for employers: *"These endeavours) are meant to help the employers appreciate that an 50+*

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*employee is still a perfectly viable option in terms of his occupational potential for the employer. Sometimes this option is even more attractive, as in the case of women there is no added burden of attendant family obligations” [PL6].*

The enforcement of an age interval to insure that projects target older persons is a frequently described compliance strategy by the interviewees. However, it can also be associated with what interviewees call positive or inverse discrimination (7):

*“We here make an inverse discrimination... We do not allow younger people. So it can be said that here, it is the young people who think the program is discriminatory for the population because they are not admitted in the program [...]. We here clearly help older people. [...] If there is discrimination here, it is discrimination against young people.”*

[PT1]

*“As far as the seniors are concerned, the present project is entirely non-discriminatory. On the other hand, though, it is downright discriminatory with regard to the younger persons” [PL8].*

Again, this ‘positive discrimination’ raises the issue of the numerical threshold for one to be considered an older person, with some interviewees reflecting on how other construct besides age - ability; health; autonomy, among others - can be similarly relevant in the decision regarding inclusion or exclusion of participants in specific projects:

*“It is not the issue of age that is the question, what is in question is each specific situation. I never discriminate anyone [...] I didn’t discriminate anyone based on age. What we aim is to consider the specific situation in which people are [...]. Aging may be adversely affected by a number of risks that are important to mitigate, right?” [PT9]*

Interviewees also referred that compliance with AADL’s was achieved through the actual content of the project, rather than its access policies. Several interviewees identified key themes in their project that were actively directed at fighting ageism (8), such as to “*promote independence of older persons, thus helping to avoid discrimination*” [AU5] or to “*counteract in practical ways any manifestations of age-discrimination (...) through ensuring a comprehensive scope of health care services for them, in the way that would effectively facilitate access to them*” [PL7].

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The fight against exclusion of older persons from the job market is also a relevant target to such programs. according to interviewees whose projects are described as “*effectively countering the seniors’ self-exclusion from the job market while on the other one through having the seniors occupationally activated, along with shaping up a positive social image of a person over 50 years of age in terms of being a valuable employee*”. [PL9].

Interviewees were also asked to reflect on whether the projects in the same subject area as the ones they were involved in were generally compliant with AADL’s, and while many interviewees did not address this issue, several assumed the projects were globally compliant (15): *They most certainly do. If such a target group gets a priority treatment, then it is the exact opposite of undue discrimination*” [PL6].

Although most interviewees state that the projects they are involved in are compliant with AADL’s (40), along with the general projects in their target areas (15), some interviewees do provide evidence that the projects might not be compliant with AADL’s (7), mostly due to the age criteria that excludes citizens and might be discriminatory:

*“I think almost all the responses that exist for older people are highly stigmatizing, because the criterion that is most praised is not the response to the needs but people’s age (...) The criterion is usually based on age, and age is a criterion but not the criterion, it is a criterion that alone is highly inadequate, unfair, stigmatizing and creator of completely unrighteous marginalization, right?”* (PT6)

The specificities of some projects might also inadvertently promote exclusion: “*in projects approved some activities or job proposed are clearly feasible only by young workers*” (IT7).

**In sum, interviewees answers regarding compliance with anti-age discrimination laws reveal the following fundamental pattern:**

- i) there is an overall consensus among the interviewees that the programs are in compliance with AADL’s. In fact, 40 of the 42 program interviews conducted agree that the program follow some sort of guidelines to comply with AADL’s**
- ii) Compliance with AADL’s take the format of not imposing age limits to program participation, by taking actual measures to fight ageism, by engaging in positive discrimination by restricting the program to older**

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**people, by providing special assistance to older people or ensuring equal access to everyone regardless of their age**

- iii) **These results are encouraging, showing that contrary to the comments made by the European Network of Legal Experts in the Non-discrimination Field, at least the programs considered in this sample are taking into consideration the AADL's legislation in their approaches. Hence, they may be considered good examples of compliance**

### 7.2.2. The relevance of anti-age discrimination laws

Interviewees generally consider AADL's to relevant against age discrimination (14) – “*Anti-age discrimination laws in general are of high relevance*”[AU4] - particularly regarding some key areas: “*In pension and health issues anti-age discrimination laws in general are of high relevance.*” [AU9]; “*They allow and aim at ensuring an equal access to healthcare*” [FR7].

These laws are also considered vital regarding their potential role in social change: “*It is vital that any legislative regulations counteracting age-discrimination make due allowances for overall need to have the prevalent social stereotypes of an old age effectively changed across the population, whilst proposing specific systemic solutions*” [PL8]; “*They are important not only considering the elderly Italian society but also in an intergenerational perspective to build an equal society*” [IT2]

Some interviewees view these laws not only as relevant but as an absolute necessity (6). This need appears to be associated with the AADL's potential **eco-systemic impact** (simultaneously at several micro and macro levels), namely: 1) the potential employees and the job market agents” *this is mostly about altering the mentality of the employers, but to some extent also the one of the over 50s*”[PL6]; 2) the current socio-political changes: “*They are necessary in this moment of demographic and economic changes*” [IT1]; “*Such anti-discriminatory regulations are very much needed, especially in view of the presently adopted drive to have the statutory retirement age extended*” [PL9] ; and 3) even the larger societal systems: *Rules will be necessary until cultural heritage will overtake the problem* [IT4].

However, some interviewees are not aware of such AADL's (6) and /or comment on how there laws are generally unknown: “*What are the anti-discrimination laws?*” [PT7]

Sometimes the interviewees refer that they are not aware of these laws but appear to imply that the main documents of national law, such as the constitution or labour codes, already specifically address this issues:



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*“In Italy I don’t know if there is a specific law but we have the most important legislative act, our national Constitution that in the article 3 specific that “all the citizens have the same social dignity and are equal for the law, without distinction made by sex, race, language, religion, politic opinions, social and personal conditions.” [IT10]*

*“To be honest, I do not seem to know much about them, apart from the ones actually comprised in Polish Labour Code.” [PL3]*

Few interviewees also question the effectiveness of these laws, as they refer that AADL’s might not make a difference (4). The reasons attribute to this position range from a notion that ageism is an ever-present phenomena *“Ageism is always present, creeping, partially overtaken by the evidence of numbers”* [IT11]; to the idea that these laws only address short-term changes with little impact: *“the issue of social stereotyping with respect to old age should effectively be addressed in an official way.*

*But pursuit of such one-off projects is not going to make much difference in the long run”* [PL8]. Also, some interviewees draw attention to the issue of over-regulating such matters: *“It is by no means less important to ensure that there are not too many of such regulations in place, as otherwise this might well prove counterproductive.”* [PL8]

Additionally, some underline that these laws lack clarity, which could potentially undermine their effectiveness: *“We need clear laws that do not exist, so we have to consider this aspect in different domain and field of our work in and with the society.”* [IT6]

**In sum, interviewees’ answers regarding relevance of anti-age discrimination laws reveal the following fundamental pattern:**

- i) most of the interviewees find AADL’s to be highly relevant, especially in this period of demographic ageing of the population and where so many issues are being raised, for instance, regarding work status, social security and retirement issues. In fact, for some of the interviewees they are an absolute necessity in these times**
- ii) The potential impact that these laws may have for social changing representations of aging in society is also an important factor considered by interviewees**
- iii) However, some answers regarding this issue still reveal a lack of a clear understanding of what these laws are and the specific format they have in each country. Interviewees are worried about the effectiveness of these laws if they become rather complex**

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- iv) In the same vein, some interviewees feel that AADL's might not be very relevant if they are not followed in a consistent manner by other type of more global strategies to fight ageism and stereotyping of older people**

### 7.2.3. Patterns and Processes

Several themes regarding associated with both age discrimination and anti- age discrimination laws emerged from the analysis. In what concerns the prevalence of discrimination (12), interviewees identified several areas of concern. The most frequently referred environments of age discrimination were the job market (6), family and social networks (3) and transportation (2) (see fig.3):

- Labour: *“Age discrimination in employment is very strong [...] it will also be linked to issues of qualifications because older people are also many of those who have less qualifications... They have more experience but are less qualified, they qualifications have adapted or*
- *suitable for certain jobs. That is why the problem of qualification of human resources is essential” [PT9]; “sometimes they can be more discriminated based on the appearance of their abilities either physical or intellectual, not so much by age. Because I think older people and appear to have a good intellectual level (...) There is nothing like we looking at the person's face and through conversation understanding who we have in front of us” [PT7]*
- Family and social networks: *“there are many problems, even in the actual family (...) Clearly they have specific needs (...) we do not make room for older people because they are older, the psychological or physical maltreatment is very negative and that is what is discriminating and, in fact, the space for them in the community must be earned and mechanisms for this effect have to be found [...] the multigenerational families is... I think the younger have no patience, no patience nor do they find interest [PT4]*
- Transport: *“regulations where under drivers above certain age, e.g. 60, would be automatically subject to enhanced control (...) may lead to discrimination of older drivers, and older age does not necessarily mean poorer motor abilities and greater risk posed on the road. More individualized approach would be preferred here. (...) depriving a person of their driving license only because they have reached a certain age would often result in social exclusion. [PL10].*

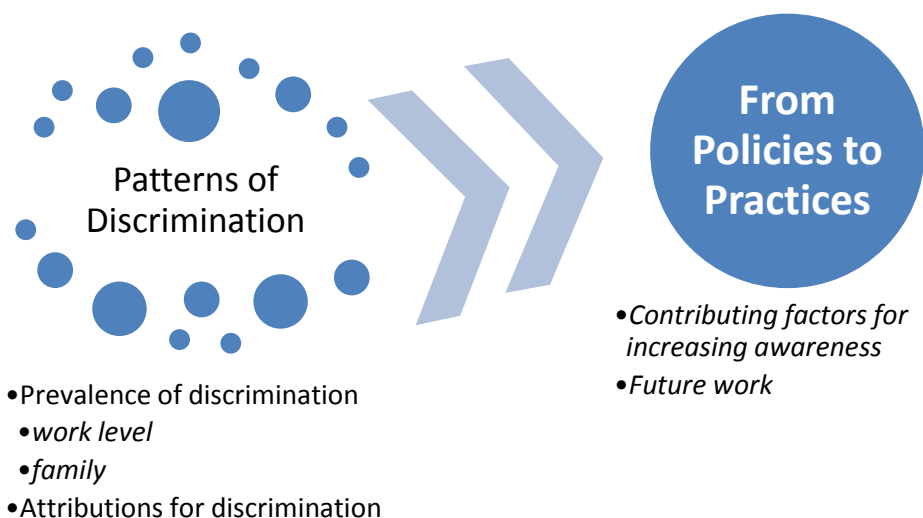
- 
- Health: “Older people are seen as (...)I am going to use a very strong word... like garbage. We enter nursing homes and we see it, right?.[PT3]

Regarding the family, interviewees refer specifically to age discrimination in a more blatant format, in the form of abuse or ill-treatment. Other areas of concern included access to access to social media, education and financial products. Interviewees attribute age discrimination to several causes, all involving negative representations of older persons, namely regarding presentation, health concern and qualifications. Participants generally agree that there has been a greater awareness (3) towards age-discrimination in recent years and this change appears to be associated with both the AADL’s “*Portugal has already taken a big step in that aspect. There has been a pedagogy of integration and a philosophy of active aging etc., by all political actors*” [PT7] and the increasing life expectancy; “*They increasingly live longer, with a better quality of life, medicine evolves too, there are a number of factors that contributed to this, right?*” [PT2].

Finally, the process by which the AADL’s can promote effective change is strictly illustrated by this interviewee , which also points a specific direction for future work :

*“such a law can only be effective enough because (...) there is concomitantly a cultural strategy for mindsets and attitudes’ change, because practices only after change this ideological conversion is made. We can say that it is forbidden to discriminate but if people have not really changed their attitudes towards others and what they think about older people, for example, then in fact very difficult (...) while the attitudes do not match the actions and do not match the mentalities, attitudes come out skew, thus, the anti-discrimination law or that prohibits discrimination is important because it corresponds to a European directive, because, thankfully, there are some European directives that are transposed to the countries law, but until there is a EU directive that does not allow for discrimination based on age, and based primarily on criteria linked to aging, negative and associated with aging, probably the countries will not cooperate [PT6].*

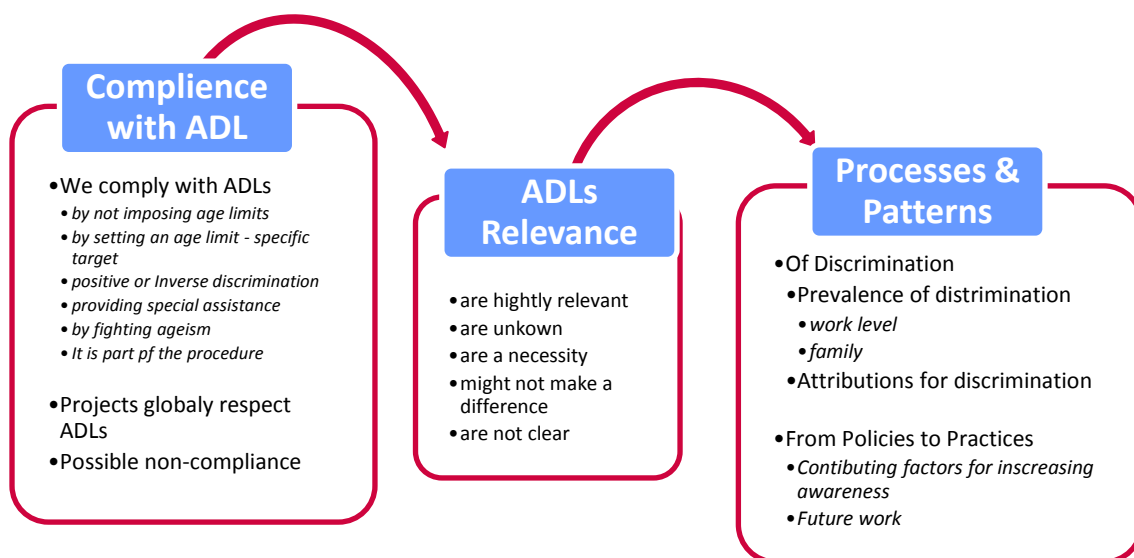
**Fig. 3. Patterns and processes of discrimination**



In sum, interviewees' answers regarding patterns and processes of anti-age discrimination laws reveal the following fundamental points (see fig.4):

- i) Interviewees acknowledge the pervasiveness of age discrimination of older people across different social fields such as employment, transportation, health and social media. There is also a reference of age discrimination within the family, but mostly in the format of abuse or negligence against older people
- ii) there is the notion that legislation is an important step towards social change but that it is not enough to produce it. Future work in this area should continue try to change the dominant ideology and mindset regarding aging. Interestingly, in this regard, interviewees in our sample are very much in line with the recommendations of the European Network of Legal Experts in the Non-discrimination Field when they specifically advise that a true effort of AADL's implementation should involve a greater effort of coordinated work between different institutions of important areas of action in society (e.g., ONG's, social scientists, public administrations and trade unions).

**Fig. 4. Graphic summary of interview themes**



## 8. Limitations and future work

Some limitations were identified through the analysis process. First of all, it is very important to refer that the interviews were conducted with a convenient sample of programs and in specific three domains (labour, health and transportation). This should be taken into consideration when we analyse the results. In fact, the high level of compliance referred regarding AADL's might be an artificial result based on the chosen program under analysis. For the future it would be important to interview further programs, in more countries and in more domains in the aging field.

Also, the fact that original transcripts were translated from five different languages into English, all by different translators, might have potentiated some loss of the original richness of expression.

Additionally the structured design of the interview script limited the depth and scope of the data. In future similar projects, a semi-structured interview scrip would be preferable in order to take advantage of the experts specific and rich knowledge regarding such issues.

## 9. Conclusions and recommendations

The goal of this work was to explore the potential of social change of anti-age discrimination laws in Europe and their actual level of implementation in effective programs. First of all, we

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conducted a documental analyses that allowed us to identify the main AADL's both at the European and country level. The reports provided by the European Network of Legal Experts in the Non-discrimination Field assumed a fundamental importance in this analysis, along with the information provided by each of SiforAGE partners involved in this task.

The documental analysis revealed that all the five countries under analyses had already adopted AADL's in their legislation and that the majority of them considered other fields of coverage than just employment. This is an important finding since it suggests that EU countries are giving special consideration and working to make AADL's more complete and effective across several domains in society. However, despite the fact that legislation exists, legal experts in each country also concur that their actual implementation in practice is not still at a desirable level and advise towards the adoption of a more inclusive strategy to involve different social actors to guarantee and promote diffusion and adoption of such laws in society.

Along with a documental analysis, our work presented an original approach since it included actual interviews to program planners in the aging field, across several domains and levels in five European countries. This strategy allowed us to test the level of incorporation and implementation of these laws in practice. Content analyses of these interviews allowed us to reach significant conclusions regarding this issue.

First of all, it is important to verify that the vast majority of the interviewees agree that their programs are in line and respect AADL's thus protecting older people. This "compliance" with the laws take several formats including actual measures to fight ageism, clear inclusion criteria favouring access to all age groups or just older people and by the type of procedures they adopt that guarantee respect for age diversity. In line with this, the majority of the interviewees concur that age discrimination is a widespread phenomenon across several fields (e.g., work, health, social media) and that AADL's are highly relevant, especially in this timing of demographic changes and population ageing.

These results are encouraging because they show that not only AADL's are perceived as fundamental, but that also actors in practice recognize their importance and are making efforts to follow them in their practical work while intervening in the aging domain.

However, there are still some doubts regarding clarity and significance of AADL's in the present context. Specifically, interviewees suggest that the mere introduction of individual measures regarding AADL's that are not widely applicable to different societal fields and that are not supported by a more thorough strategy to involved the different social actors might not end up having the intended social change effects. For future work, the interviewees are hence much in line with the recommendations made by the European Network of Legal Experts in the Non-discrimination Field. A true effort to social change is only possible by making real efforts to guarantee that the practices follow the new legislation in this domain.

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We believe that the work conducted in this task of the SiforAGE project is of great value because it explores in a methodologically valid way, the actual efforts that are being made to incorporate these laws into practice. We believe that such a strategy is of meaningful importance and that this work should be continued in the future. By directly asking the actual players in aging field we will be able to understand and evaluate social change in this domain.

On another hand, we also believe that it is of fundamental importance to continue the investment made in the European Network of Legal Experts in the Non-discrimination Field work since the reports provided by this team provided fundamental evidences to base this work and give fundamental insights on the evolution of AADL's in Europe.

Finally, and in accordance with the legal experts' advice, our interviews in the practical field also recognize the importance of adopting a more general approach to fight age discrimination that promotes the actual implementation of AADL's in practice. In this case, there seem to be important guidelines that should be of importance:

- i) it is important to avoid complex legislation that makes it hard for actors in the practice domains to understand and apply**
- ii) there should be an increased effort made by the governments to disseminate AADL's across society by engaging different social actors (NGO's, public offices). Some efforts of this sort are referred in the reports provided by the European Network of Legal Experts in the Non-discrimination Field and could be further investigated as good practices of AADL's dissemination in society (e.g., workshops of AADLs)**
- iii) ageism should not be presented as just a matter of legislation. It involves a wider social change of mentalities. Only by adopting the overarching view can societies promote social change in this domain. This point is important and emphasize the relevance of the work conducted in other WPs of the SiforAGE project**

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**APPENDIX** - Original interview script

## INTERVIEW GUIDELINE FOR 4.1 and 4.2.

### PART 1 – GENERAL OVERVIEW

#### Details about institution on which an interview is conducted

1. Name of the public administration institution/ department (*original one and its translation into English*)
2. Level on which the institution operates: local, regional, national (*plus a brief explanation what it means in the concrete context, e.g. local level for Kraków means the city of Kraków*)
3. Details about institution/department<sup>2</sup> (*e.g. main tasks in short 2-4 sentences, since when it has existed, how is the organization being financed, institutional context, target group*)<sup>3</sup>;
4. What is the role of the institution/department for older people? (*if there is any specific role; sometimes one department in the whole institution deals with senior issues only*)
5. Role of the respondent in the institution
6. Name of the respondent (if possible with his/her e-mail address)

#### Details about policy/programme/scheme<sup>4</sup>

1. Name of the policy/programme/scheme
2. Duration (*from...till*)
3. Domain investigated: (*labor, health, transport, R&D in social issues*)<sup>5</sup>
4. General characteristics of the area where the policy/programme/scheme was being carried out, mainly:
  - Geography

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<sup>2</sup> In case of a department, it is worth to describe a bit a whole institution and then concentrate on the department

<sup>3</sup> At national/regional/local level this information may be short, at the European level it should be more detailed to know the international context well.

<sup>4</sup> Ideally, task 4.1 should concern only programmes that are finished. But, in case it is not possible to find the finished ones, I think we can go on with the lasting ones. We may have problems with results then, but we will deal with that this way or another. It is always better to have a programme, than not have it.

<sup>5</sup> R&D in social issues concerns only CARRINA.

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- Population and density
  - Economic and industry (especially those characteristics which may affect elderly people, *e.g. the region is characterized by a high rate of emigration of young people*)

## **PART 2 – INFORMATION ABOUT THE POLICY/PROGRAMME/SCHEME – EXAMPLES OF QUESTIONS**

### **Obligatory issues we should get answers to:**

1. What was the goal of the project?
2. What was the method of financing?
3. What was the target group?<sup>6</sup> What actions were taken in the project?
4. Was the goal of the project achieved? Were some specific purposes not achieved? (Why?)
5. Will the project be continued? If yes, in what shape?
6. Who decided to launch the project? What were the reasons for that?
7. Did the target group have any influence on the shape of the project and its implementation? (if), at what stage? (If not) Why not (both at the shape of the project and its implementation)?
8. Do you think it was important/useful to implement this specific project? Why?/In each ways?
9. What are in your opinion innovative elements in this project? Why are they innovative?
10. Do you know if other institutions are also doing similar programs?
11. Was/is the project a basis for creating any policy (at least partly)?
12. What was the role (if any) of the politicians in the project?
13. Were politicians/mayors etc. informed about the project's results? How?
14. Do you think that projects in this domain (e.g., labour, health, transport) respect these anti-age discriminatory laws?
15. What do you think about anti-age discrimination laws in general? Why?

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<sup>6</sup> If the age is not given, but the group is defined as older people, please, write what is meant by older people in your country/culture

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16. Do you think that this *specific* project is compliance with anti-age discriminatory laws? Why?
  17. Was any evaluation research conducted after the end of the project?
  18. Who made the evaluation?
  19. Was the target group involved in the evaluation process?
  20. Did something unexpected happen during the project? What was it?

### **Other issues**

21. What particular results were expected to be reached?
22. What was the genesis of the project? (Who was the inventor? Was there any external inspiration?)
23. What do you think should be changed (if anything)? Why?
24. What are/were in your opinion the disadvantages (if any)?
25. Did the institution/department implement any other projects dedicated to seniors in the past? (What? – short description)
26. Who realized the project on behalf of institution?
27. Was the project modified after its beginning? Why?
28. Which barriers were (if any) met during the project's implementation?
29. What factors were decisive when it came to the choice of the project's implementation?
30. What do your colleagues in other institutions think about these types of programs?