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Age discrimination in the labour market in Poland – A socio-legal perspective

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Sufficient scientific evidence exists, along with everyday experience, to support the conclusion that age is of substantial importance in modern labour markets. Several empirical studies have confirmed that older age can be an obstacle to finding a job. Among the solutions to the problem of the unequal treatment of workers based on age, many authors point to anti-discrimination legislation as the primary framework to effectively address the issue. However, despite the availability of such measures, their *de facto* application remains questionable. Taking the existing legal solutions as a point of reference for the analysis of age discrimination in employment, this article attempts to answer the following research questions: what is the efficiency of implementation of the European anti-discrimination legislation in Poland from a sociological perspective? How is the prohibition of age discrimination encompassed and interpreted in the current law and policy measures in Poland? The paper also addresses issues related to different types of age discrimination practices which are predominant in Poland. Lastly, the paper concentrates on the question of the level of awareness regarding the anti-discrimination legislation among older workers and the possibility of putting the law into practice. The empirical analysis is based primarily on quantitative data gathered in a telephone survey in the Małopolska region in Poland in 2010.

Key words: age discrimination, law, older workers, Poland, legal awareness.

Introduction

Empirical data, as well as observations of everyday social life, indicate indisputably that age discrimination is a fairly common phenomenon in Polish socio-economic reality, and, as other studies suggest, also in other Central and Eastern European countries (Szeman 2011; Vidovićová 2005). Research carried out among Polish entrepreneurs showed that over 40 per cent of the respondents had concrete preferences regarding the age of their employees and were rather unwilling to hire older job applicants (Górniak *et al.* 2010). Those preferences naturally do not directly translate to unequal treatment, but they certainly create sufficient conditions for the occurrence of discrimination on grounds of age in employment. Several empirical studies have so far confirmed that older age can be an obstacle in finding a job in Poland (Błądowski/Szuwarzyński 2009; Kędziora 2010; Perek-Białas, Turek and Strzałkowska 2010; Szatur-Jaworska/Rysz-Kowalczyk 2007). In a study of unemployment among Poles in non-mobile working age - the group '45 plus' - it was precisely the argument of chronological age which ranked first as a primary reason for their current adverse situation in the labour market (Szatur-Jaworska/Rysz-Kowalczyk 2007).

In other words, age is of substantial importance in the labour market. Being in 'improper' age, considered to be too young or too old for a certain job or position, can, to a large extent, deprive an individual of employment opportunities, the chance to participate actively in training or to be promoted, which in turn can lead to a high level of dysfunction in the social and economic wellbeing of an individual and have detrimental effects on professional careers (see: Ainsworth/Hardy 2007). Among the reasons for the prevalence of

ageist behaviour and attitudes in the workplaces, scholars have listed several potential answers. Firstly, the widespread reluctance in hiring older workers is due to persistent negative stereotypes of older workers as hard to train, lacking creativity, overly cautious, unable to adapt to new technology and lacking flexibility (Bytheway 1995). Moreover, the management of companies is often unaware of the fact that age discrimination is unlawful (unlike sex or race discrimination) and can thus be perpetrated. Another argument is the 'fair innings' argument, which suggests that older workers should make space for younger ones in employment, as they have already had their chance to develop professionally (Cavanagh 2002). Last, but not least, older workers might be considered not apt for work in 'young' branches, such as communication, advertisement, media, where the median age of the target group of clients is significantly lower (Gastor 2002).

Among solutions to the problem of unequal treatment of workers based on their age, many authors point to anti-discrimination legislation¹ as the primary framework to effectively address the issue (Herring 2011; Macnicol 2010; Neumark 2003). Legal solutions to the problem of age discrimination are also available to Polish employees, due to the adoption of EU Directives prohibiting discrimination. However, despite the availability of such measures, their *de facto* implementation remains questionable, due to a variety of factors (Kłos 2011; Wieczorek/Bogatko, 2013). One factor could be the lack of comprehension of what in fact constitutes age discrimination, since, as noticed by Carmichael *et al.*, 'age discrimination is a poorly understood complex social construct that can operate indirectly and subliminally' (Carmichael *et al.* 2011: 122). Particularly important for the functioning of anti-discrimination legislation seems to be the link between the legal and social understandings of discrimination, which can either enhance or jeopardise the effective operating the law. The socio-legal perspective on the phenomenon of age discrimination is also put forth in this article. The aim of such an approach is to understand the interplay between the legal and sociological formulation of the concept of age discrimination, as well as its empirical manifestations.

Taking the existing legal solutions as a point of reference for the analysis of age discrimination in the labour market, this article attempts to answer the following research question: namely, what is the efficiency of implementation of the European anti-discrimination legislation in Poland from a sociological perspective? In addressing this question, several supporting questions will be answered. First of all, how is the prohibition of age discrimination included and interpreted in the existing law and policy measures in Poland? The understanding of the implementation of equality law is vital for casting some light on the actual operation of the law in practice, as it could be argued that improper implementation of legal provisions will lead to a lack of its application in practice and poor social outcomes (Herring 2011). Secondly, the paper addresses the question of different types of age discrimination practices which are most prevalent in the workplaces in Poland, and which are identified by the present law. This will help draw a picture of the scope of the problem of age discrimination in employment, as the existing research lacks coherence and precision in addressing this problem (European Commission 2009; Szatur-Jaworska/Rysz-Kowalczyk 2007; Szukalski *et al.* 2008). Thirdly, the paper concentrates on the issue of the awareness of the anti-discrimination legislation among older workers and the possibility of putting the law into practice. The efficiency of anti-discrimination solutions can be measured by the active usage of the law by the addressees of this law, namely the employees and employers and thus their opinions and attitudes are of crucial importance to the process of the successful implementation of this law.

Older workers in the Polish labour market – Background information

Poland is usually characterised as an 'early exit' culture, where the average labour market exit age in the period between 2004-2009 was 61 for men and 58 for women. The official retirement age was 65 for men and 60² for women (OECD 2011). Another characteristic of

the Polish labour market is the mechanism of ‘depreciation and ejection’ (Perek-Białas *et al.* 2010), where older workers have been systematically excluded from the workforce and their skills and experience undervalued. In the post-transition period, lack of labour market policies targeted at the retention of older workers resulted in low activity rates and difficulties re-entering the labour force after a period of unemployment, resulting in high long-term unemployment rates (Szukalski 2006).

In order to better understand the current situation of older people in the labour market in Poland, it is worthwhile to present some figures illustrating the demographic situation of the Polish population, as well as data regarding the age group in question, namely 45 to 65 year olds, in other words – the non-mobile working age group. In general terms, as identified by the Central Statistical Office, the process of population aging will be intensified. The highest increase in the number of persons at the post-working age is expected in the decade of 2010-2020 – a growth of almost 2 million people (CSO 2009). The share of persons at the post-working age in the total population has been systematically increasing from 16 per cent in 2007 to expected 22.1 per cent in 2020, and 26.7 per cent in 2035 (CSO 2009: 308). The coefficient of the old age dependency ratio in Poland will increase from the current figure of 26 in the year 2010 to an estimated number of 46 in the year 2035 (*ibid.*). These changes will be of revolutionary character to the labour market and will significantly affect the future of the whole population, both the productive and non-productive groups. It is obvious that the primary challenge is to keep the aging workforce active as long as possible in order to avoid negative consequences for the sustainability of the public finances, pension system, and health care sector, as well as long-term care services (Hoff 2011).

A comparative study by Perek-Białas and Ruzik (2004) of the data from two National Censuses clearly shows the dramatic decrease in the employment rates between the years 1988 and 2002 for persons over 55 years of age. The total labour force participation rate of this age group dropped from 52.3 per cent in the year 1988 to 30.4 per cent in 2002. The rates for men were 63.7 per cent and 40.4 per cent, and for women 42.7 per cent and 21.9 per cent, respectively. The data from the CSO (2009, 2012) illustrate the fact that the process of withdrawal from the labour market before the statutory retirement age is deepening even further for men. The average employment rate of the age cohort 55-59/64 is 37.5 per cent for men, and 23 per cent for women. However, the latest data on the participation levels of older persons in employment are slightly more optimistic, and a general improvement in the trend can be observed. According to the recent CSO data, the activity rate of persons in the age group 55-64 has risen by 2.5 percentage points in 2011, in comparison to the 2010. This age group is the only one which noted an increase in the activity rates (CSO 2012).

An additional dimension describing the situation of older persons in the labour market is the recent economic slowdown and the repercussions it has had on the job market. The first analyses of the impact of this event on the aging workforce were carried out by the Eurobarometer (2009), which revealed Europeans admitting that age discrimination was a widespread phenomenon, with an increase from 42 per cent in 2008 to 58 per cent in 2009. This was supported by the question as to whether or not Europeans think that the economic crisis will cause an increase in age discrimination, which was answered positively by 58 per cent of the respondents in Poland, and an average of 64 per cent in all European countries. The highest level of concern was expressed by Finnish citizens (83 per cent), and the lowest level of concern was noted in Malta (43 per cent) (Eurobarometer 2009).

The demographic and economic determinants of the situation of older workers in the Polish labour market provide a necessary background for discussing the implementation of the anti-discrimination legislation by the Polish authorities. These arguments are frequently formulated as a rationale for undertaking vast policy reforms (such as the most recent reform of retirement age) or tailoring new policy measures targeting older workers.

Implementation of anti-discrimination legislation in Poland – A two-lane road

The implementation of the age discrimination legislation in Poland has been justified and approached from two perspectives, what also is essentially reflects the status quo of age discrimination legislation in the EU institutional framework. There, the equality of treatment of older adults is rooted in two policy areas. On the one hand, it derives from the activities in the area of employment strategies (European Commission's Department of Employment, Social Affairs and Inclusion) with a particular emphasis on the age group 55+. On the other hand, from the EU strand of anti-discrimination policies, which also target age discrimination in the labour market, but is related to the European Area of Justice and include other grounds for discrimination (European Commission's Department of Justice). This stretch, between what John Macnicol (2007) calls 'labour supply' and 'social justice' justifications for anti-discrimination laws can also be observed in the case of implementation of these laws in Poland, where the functional, economic explanations are mixed or stand apart from the human rights approaches to age discrimination, and are also further institutionally separated. The following section looks therefore firstly at the incorporation of the rule of non-discrimination into public policies, whose aims are more related to the support and management of the aging workforce and aging societies in general, and secondly at the implementation of the anti-discrimination legislation from the perspective of equality of treatment, and as a human and social right.

Age discrimination in public policies for an aging workforce

The incorporation of age discrimination issues in the strategies and policies regarding the labour market has been slow, scattered and minimalistic. Despite an increasing number of academic reflections and research-based evidence emphasizing the gravity of challenges related to an aging population, until the year 2008, there had not been a national-range program directed towards older workers and the professional activation of the older cohorts. In 2008, the national program 'Solidarity between the generations' was established and policy directions for the years 2009-2015 were set. The major target of the program was to increase the labour activity rates of the age group 55-65 to 50 per cent, as laid down by the Lisbon Strategy (Rada Ministrów RP 2008). Basing on the European documents, the program set forward detailed targets, as well as the appropriate tools and indicators for measuring the progress of implementation. Age discrimination in the labour market, along with the existence of certain negative stereotypes about the older workforce, was recognised as one of major causes of early exit from the labour market, as well as a substantial barrier to increasing the employability of this age group. Needless to say, age discrimination is not the only cause of low employment rates of the group 55+. Major obstacles include: lower educational attainment of the older cohorts, lack of skills and competencies needed in modern workplaces, assumed lower productivity³, worsening health conditions, lower social and human capital, family care responsibilities (aging parents, grandchildren), as well as financial incentives for earlier labour market exit⁴ (although recently highly restricted) (Błędowski/Szuwarzyński 2009; Perek-Białas/Ruzik 2004; Perek-Białas *et al.* 2010; Rada Ministrów RP 2008). Nevertheless, age stereotypes and prejudices present in the attitudes of potential employers pose a tangible and considerable barrier to the successful participation of older people in the labour market, since such attitudes are often difficult to detect and therefore challenging to public policies.

The 2011 Evaluation Report of the implementation of the 'Solidarity between Generations Program' stated that 10 tasks (out of the projected 44 for the entire duration of the program⁵) had been fulfilled by the responsible authorities. Those tasks were mainly of a legislative and informative character. The first realised task mentioned here was the 'dissemination of information about the legal prohibition of discrimination based on age and disability contained in the labour code. This task was fulfilled by placing the information about it on the

website of the Ministry of the Labour and Social Policy' (MPiPS 2011). The Evaluation Report also mentioned a number of observable soft results, which included, for instance, 'change in perception of older workers and breaking the negative stereotypes' (ibid.).

In general, an analysis of the text of 'Solidarity between the generations' program suggests a relatively high importance and recognition of the problem of age discrimination, however the program is lacking a practical transposition into goals, measures and indicators, which would help prevent age discrimination in the labour market. Even though measuring discrimination is much more difficult to transpose into quantifiable indicators, such as, for example, employment rates or the number of participants in job trainings, the need to monitor the level of discrimination present in the labour market seems to be the only reasonable solution to deal with the problem in the long run. Such an approach was proposed by the representatives of social organisations⁶, but has so far not been implemented. The constant monitoring of the extent of labour market discrimination would allow for the measuring of the effect of the policies as well as their potential readjustment.

Labour market participation of older persons is also one of the priorities of the National Action Plan for Employment (*Krajowy Plan Działań na Rzecz Zatrudnienia na lata 2012-2014*) for the years 2012-2014, adopted by the Council of Ministers in August 2012. This document, being a general framework for all ministerial initiatives, sets up several priorities based on the current labour market situation. With regard to discrimination in employment, older workers were not mentioned explicitly, as was the case with other disadvantaged groups in the labour market, i.e. women and the disabled (Rada Ministrów RP 2012). Worth mentioning is the fact that this plan, in comparison to the previous one for the years 2009-2011, prioritises younger age cohorts as the targets of employment policies, since those are the groups hit most fiercely by the economic crisis, resulting in their high unemployment rates. This is an important shift and development of a deeper understanding of intergenerational solidarity.

In August 2012, the government created a separate unit within the Ministry of Labour and Social Policy responsible for the issues related to aging – the Department of Senior Policy. The new unit is responsible for creating and developing actions directed at seniors, the improvement of support system for seniors, implementation of active aging policies, fostering inter-generational co-operation, as well as the monitoring of the implementation of those activities (Regulation of the Council of Ministers nr. 68). Since the beginning of 2013, the new department has also been working on drafting of a Long-Term Senior Policy Program for Poland for 2014-2020, which was finally adopted in December 2013. The program establishes several priorities with regard to different areas of social life ('health and independence', 'economic activity of persons 50+', 'educational, social and cultural activities', 'silver economy' and 'intergenerational relations') which need to be addressed in order to improve the situation of older person in those areas (defined here as older than 60). Even though prohibition of age discrimination is not explicitly incorporated into the guidelines, its importance is indirectly acknowledged in the form of a focus on inclusion and active participation of seniors in public, economic and social life.

To shortly sum up the developments in integrating age discrimination into social policies for aging societies, it must be concluded that it is not directly considered as a task of high priority, since it is usually regarded as one of the obstacles to raising employability of older workers. However, the application of concrete measures and tools to fight age discrimination in the labour market remains weak and lacks visible indicators, which would help with the measurement and the systematic monitoring of the phenomenon.

Age discrimination legislation from the perspective of standards of equality

The second platform upon which the issue of age discrimination is being tackled by Polish authorities is the legal implementation of EU regulations, where the broad concept of equality provides a rationale for the legislation. In the year 2000, the European Council enacted a new regulation, namely the Framework Employment Directive (2000/78/EC) prohibiting

discrimination on various grounds⁷, including age. The aim of this directive was to ensure equality of treatment in access to employment, training and work conditions (European Network of Legal Experts 2006). It was the first time in the European executive legislation where age was included as a separate ground for protection against discrimination, since previous anti-discrimination approaches were concentrated mostly on gender, nationality and race (Bell/Waddington 2001; Stypińska 2008). Such a broadening of the scope of protection against discrimination cast a completely new light on the issue of age discrimination in the workplace, which was considered an unspoken problem and also a hard task to tackle with social policies (Macnicol 2005; Parry/Tyson 2011).

The implementation of the directive in Poland had two phases. The first one was the incorporation of certain provisions prohibiting discrimination into the labour law, which was accomplished with amendments to the Labour Code in 2003 and 2008 (Kłos 2011). The new provisions stipulated what direct and indirect discrimination is, narrowed down the definition of harassment and introduced the concept of instruction to discriminate into the Polish Labour Code⁸. The second phase of implementation was the introduction in January 2011 of the unified act on discrimination, which symptomatic title was 'The Act on Implementation of *Some Provisions of the European Union in the area of Equal Treatment*' (own emphasis). The amount of critical comments as to the formulation and interpretations of this act is an indicator that the quality and efficiency of this legislation is highly questionable (Wieczorek/Bogatko 2013). Law Professor and emeritus member of the Constitutional Tribunal, Ewa Łętowska, referring to many shortcomings of the law, describes this act as 'apparent/ostensible law' (*ustawa pozorna*), which was hastily enacted under the pressure of financial sanctions for non-implementation and is impossible to be effectively used in the courts (Łętowska/Sobczak 2012).

The negative opinions and concerns regarding the functioning of anti-discrimination legislation were also expressed by authors of the report from monitoring the application of the act in Polish courts. They conclude, 'this (...) law is an act, which on the one hand introduces protection from discrimination, but on the other hand creates many exceptions to this rule. This leads to confusion in interpreting the legislation and might result in its inefficiency' (Wieczorek/Bogatko 2013: 165). The results of the monitoring also established that the general legal awareness of this law among the judges in Polish courts is still relatively small and needs to be enhanced.

With regard to the improvement of the situation of older workers and their chances for equal treatment in access to employment, training and other work conditions, as stipulated in the act, the possibility for radical change and improvement is rather small. The experts, studying statistics of legal proceedings in cases of discrimination, point to the fact that the law is used by a specific group of people, i.e. mostly young, educated, self-confident workers demanding high compensations. Discrimination of older people remains 'hidden and silent', mostly due to fear of losing their job or other forms of victimisation (Kłos 2011).

To summarise, the formal obligations to implement the anti-discrimination provisions of the EU were satisfied by the Polish authorities. However, the question about the effectiveness of the introduced regulations remains. Certainly, the new law needs time to become a part of everyday practices in the courts of law, as well as in the workplaces, since the process of raising awareness is rather durable, and the effects might only become apparent in the future. Nevertheless, the critical reception of the anti-discrimination act by Polish legal practitioners, as well as representative of different social groups, suggests that the law itself will not create a sound basis for social change, and thus more resources need to be activated to make equality of treatment a reality.

After having discussed the issue of tackling age discrimination in the labour market within the legal framework, the paper proceeds to show the empirical evidence of this phenomenon on the example of a survey carried out in Małopolska region⁹ in 2010, as well as comparable data from European surveys. The research question regarding the actual scope of the problem of age discrimination in employment will be answered, and the effectiveness of the anti-discrimination law in practice will be shown.

Workplace age discrimination in Poland – Research evidence

Measuring the scope of the problem of age discrimination in order to evaluate the severity of the problem is certainly an obligatory step before any policy measures are undertaken to tackle the problem successfully. However, the existing research is not conclusive in nature and provides no clear answer as to what percentage of older workers and job seekers might have experienced discrimination on grounds of age in their professional careers (Eurobarometer 2009; Kędziora, Śmiszek and Zimny 2009; Szukalski 2008). The fundamental discrepancy seems to occur between the perception of the problem of age discrimination in public opinion and the actual experiences of discrimination felt by older persons. Moreover, the data result from different methodological approaches and various survey questions, which oftentimes cannot be easily compared (McGuire, Klein and Chen 2008; Palmore 2001).

The forms of discrimination in the working environment are various and extend from the recruitment process through working conditions, promotion opportunities, access to training, and retirement conditions. There are also substantial differences in the patterns of treating older workers between the public and the private sector, as well as between huge corporations, and small entrepreneurships, where the hiring policies may vary significantly and can be dependent upon the personal attitude of the hiring assistant or the manager (Fredman/Spencer 2003; Macnicol 2006).

Age discrimination in European surveys

The body of empirical research on age discrimination in Europe is growing steadily. Since the incorporation of the non-discrimination directives into the *acquis communautaire* of the European Union, the European Commission has also made an effort to roughly monitor the extent of the problem within Europe. Eurobarometer survey, carried out in all countries of the European Union, attempts to diagnose the social perception of the phenomenon of age discrimination and its variation over the time period and between different member states. Report from 2009 indicates that an average of 58 per cent of Europeans are convinced that age discrimination is widely spread in their country (European Commission 2009). Such conviction was most common among the citizens of two Eastern European countries – Hungary (79 per cent) and Czech Republic (74 per cent), and least common in Ireland (36 per cent) and Luxembourg (37 per cent). Poland ranks below the European average with the 51 per cent of respondents confirming the opinion that age discrimination is widespread in the country.

Interestingly, the picture of the problem of age discrimination alters significantly as the respondents are asked about their personal experiences with age discrimination - on average, only 6 per cent of Europeans admit to having experienced age discrimination themselves (ibid.). Nonetheless, age remains the most common ground for discrimination in Europe in comparison to gender (3 per cent) or ethnical origin, religion and disability, which are declared as grounds for discrimination by approximately only 2 per cent of Europeans (Eurobarometer 2009).

The most recent Eurobarometer survey - ‘Active ageing’ (2012) - took a closer look at the issue of age discrimination, engaging more detailed questions and analysis covering a broader spectrum of dimension of age discrimination. The study shows that ‘workplace age discrimination is the most frequently reported form of age discrimination experienced by people. Around one in twenty has personally experienced age discrimination in the workplace (6%) and a further one in seven (15%) has witnessed it’ (Eurobarometer 2012a: 31). The report also suggests that there were no major gender differences in reporting age discrimination, however, there were visible age differences, and the older respondents (40 and over) were more likely to have experience unequal treatment in the workplace, access to financial services and health services. Worth mentioning is also the fact that age discrimination proved to be more prevalent in CEE countries (the 12 new Member States)

than in Western European countries (EU 15). The data shows the latter group declared to have experienced age discrimination less frequently (12 per cent) than the residents of CEE (15 per cent), as well as having witnessed this type of treatment - 25 per cent and 32 per cent, respectively (Eurobarometer 2012: 32).

In Poland, empirical research on age discrimination still remains rather limited, and is mostly a side effect of research projects on the overall situation of older workers in the labour market (Błędowski/Szuwarzyński 2009; Szukalski 2006) or the unemployed. One of the first attempts to try to estimate the scope of the problem was a survey carried out in co-operation with ZUS - Polish Social Insurance Institution within the framework of the program 'Here comes the old age – social policy and population aging in Poland'. The analysis carried out indicated that the percentage of respondents who experienced age discrimination in employment was 10 per cent among those who were still economically active, and 16 per cent of those who were already inactive¹⁰ (Szukalski *et al.*). Moreover, it was proven that almost 25 per cent of those interviewed were at some point witnesses of an incident of unequal treatment based on age in their workplace. Furthermore, the study also showed that the majority (59 per cent) did not notice any deferential treatment between older and younger workers, and only 8 per cent thought that older workers are treated 'significantly worse' than younger ones, whereas 23 per cent said they were treated 'slightly worse' (Szukalski *et al.* 2008: 120).

Age discrimination experiences in Małopolska region

The primary goal of the survey in Małopolska was to measure the scope, level and types of ageist behaviours older workers encounter in their daily lives in their workplace. The survey was limited to employment since it is the only area where specific legal restrictions were introduced, namely the above-mentioned provision of the European anti-discrimination directives. Therefore, the motivation was to search for types of behaviour that are present in the labour market and at the same time are against the regulations set forth in Polish law. Secondly, the aim was to learn what the reactions and attitudes of the older workers towards ageist behaviours are and whether they would be willing to complain about them to courts or any other institution or agency, which would, to a certain extent, indicate the level of efficiency of the law.

Before presenting the results, a short methodological clarification is needed. One of the reasons to carry out this survey was the insufficient and partially unconvincing data available from previous studies. The primary problem was the methodologically dubious usage of the word 'discrimination' in the research tool, namely the questionnaire used by i.a. Eurobarometer surveys. Scholars dealing with discrimination studies agree that the term 'discrimination' is highly problematic since it is laden with multiple meanings and there is a wide discrepancy of opinions as to what actually constitutes discrimination (Duncan/Loretto 2004; Macnicol 2010; Perek-Białas/Kocór 2005; Reuter, Makkonen and Oosi 2004; Sargeant 2011). The liberty to interpret the concept freely by the respondents runs the risk of inconsistency regarding the results of such study, as individuals will have different understandings and a diverse array of identifications of the problem. What would constitute discrimination for one, might still not be considered such by another person. Therefore, a concrete operationalisation of the concept of discrimination is necessary on all levels of research, and particularly while preparing the research tool in order to satisfy the reliability of research outcomes.

The questionnaire used for this research was created in such a way as to fulfil this condition. It was partially based on the survey instrument created by Erdman Palmore (Palmore 2001) in his study of ageism, where a series of indicatory questions were used relating to ageist events in lives of respondents. The questionnaire was however adapted to two conditions – firstly, to the labour market context, and secondly to the imposed legal framework of the study. In other words, the questionnaire tried to identify the situations which would be considered discrimination from the point of view of the legislation leaving less space for individual interpretations. The series of questions included 13 categories of

discriminatory behaviours¹¹ and attitudes that could have been experienced by the older workers and job seekers in the area of employment only. The questions reflected various types and levels of discrimination, ranging from indirect and soft to direct and quite severe cases.

The survey in Małopolska was carried out on a random sample of 2,241 inhabitants¹² of the region in Poland in the age groups 45 – 65. The interview technique used for the survey was the Computer – Assisted Telephone Interview (CATI) where the sampling frame was prepared according to the telephone directory. This naturally is a restriction from a methodological point of view, since such sampling frame excludes those without telephones, and as such needs to be considered. Out of the primary sample of 2,241 respondents, 1,000 respondents met the inclusion criteria of the research, and were later interviewed. The inclusion criteria were following the major guideline of the research scheme, which was the study of age discrimination in employment, and therefore only persons who were economically active¹³ were interviewed. This inclusion criteria was necessary due to the nature of the research scheme, which focused on labour market discrimination.

The final sample consisted of 1,000 respondents, 58 per cent of which were women and 42 per cent men. More than 40 per cent of the respondents lived in rural area, and almost one fourth of the respondents lived in big cities. As far as education is concerned, most of the respondents (42 per cent) had a secondary level of education, whereas only 5 per cent had an elementary level of education. A high level of education (tertiary) was declared by one fourth of the respondents.

According to the type of economic activity performed by the respondents, almost 55% of the population were employees. 21 per cent were people working in family businesses or self-employed. The important difference and innovation in the research approach to the working population is the inclusion of the two groups, which by definition of the Central Statistical Office are not economically active, namely, the retired (almost 6 per cent of the sample) and pensioners (2.7 per cent of the sample). These two groups receive allowances from the state, and in most of the cases are thus not economically active. However, for the purpose of this study, it was advisable to also include the *working* members of these groups since they might be more prone to experience ageist behaviours.

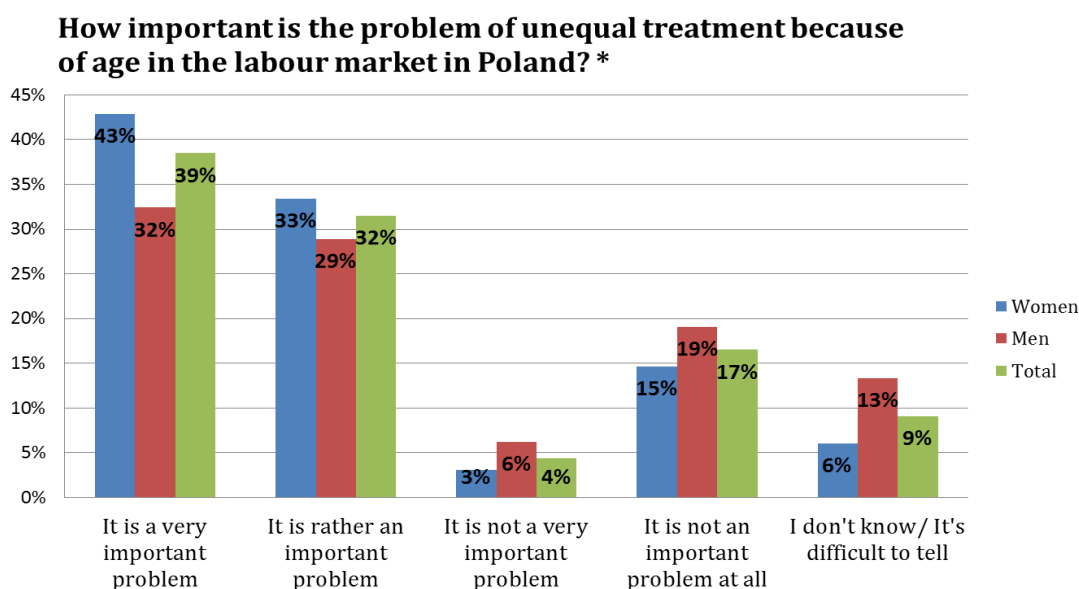
Among the respondents, almost 53 per cent worked in the private sector, 40 per cent worked in public sector, and more than 5 per cent in the non-governmental sector. The respondents were mostly employed in sectors¹⁴ such as industry (14.7 per cent), trade (14 per cent), and agriculture (12 per cent), as well as construction and transportation (11.7 per cent). The least popular sectors were IT and communication, with only 0.7 per cent of the respondents, and professionals, including academic professionals (1.1 per cent).

Awareness of age discrimination

The survey carried out in the Małopolska region confirmed that age discrimination in the labour market is regarded as a problem, and that older workers are prone to experiencing unfair treatment (see Fig. 1). On the average, 71 per cent of respondents (all above 45 years of age) admitted that it is a 'very serious' or 'rather serious' problem, and only 17 per cent considered it to be 'not important at all'. A significant factor diversifying the answers of the respondents was gender, and it was the women (76 per cent) who considered age discrimination to be a problematic issue more frequently than men (61 per cent). This relation was confirmed by a statistical test Chi square ($=0.05$). On the one hand, it seems that the difference can be explained by the greater awareness of women to the issues of equality at the workplace, which stems from the fact that the issue of gender equality has been present longer in the media and public discourse in comparison to the question of inequalities due to age. It can thus be assumed that women, to whom the social campaigns have been directed so far, had become more sensitive to the issues of equality in general. Men, on the other hand, can be characterised by a more ambivalent attitude towards the problem of age discrimination in the labour market (see: Titkow, Budrowska, and Duch 2003). Furthermore, American research proves that it is the women, next to members of ethnic minorities, who admit more

often to having been treated unequally. The men were less likely to complain or even acknowledge the problem, which was explained by the fact that the masculine role and model of behaviour leaves less space for complaint as a sign of weakness or lack of control in life (Gee, Pavalko and Long 2007).

Figure 1. The awareness of the problem of age discrimination in the labour market



Source: own study, N=1000, * chi-square is significant at the 0.05 level

Such high awareness of the problem of age discrimination in the labour market is also in line with results of other research (Eurobarometer 2012a), suggesting that, in general, people recognise the problem as being important, which may stem from the fact that discrimination has already been a topic of public and political attention for some years. The topic of old age and the position of older people in Polish society has also been present in media coverage, one example being the cycle of articles, reports, opinions and interviews initiated in 2008 by one of Poland's major daily newspapers, 'Gazeta Wyborcza', under the suggestive title 'Poland - no country for old men'¹⁵. The response of the readers to the cycle was enormous and also triggered unprecedented public debates on the different aspects of the aging of societies.

Age discrimination experiences

Also in line with the previous research (Eurobarometer 2012a, 2012b) are the results concerning the individual experiences of discrimination, since, on average, the level of individually experienced discrimination is also much lower than the level of public perception of the problem. It also applies to discrimination based on gender, ethnicity, race or religious belief, which all scored lower than 6-7 per cent in the European surveys. However, the results presented below reveal not only the scope of the experiences, but also various types of discriminatory practices present in Polish workplaces.

Table 1. The extent of experienced age discrimination in the workplace

	Have you in the last 12 months:	Total "yes"		Women		Men	
		%	N	%	N	%	N
1	Encountered stereotypes and negative remarks about older workers*	19.9%	199	22.4%	130	16.5%	69
2	Heard you are 'too old for something'*	13.8%	138	15.7%	91	11.2%	47
3	Not been hired to a new job because of your age	10.2%	102	11.4%	66	8.6%	36
4	Been treated without respect by your employer or co-workers due to your age*	8.2%	82	9.8%	57	6.0%	25
5	Been an object of impolite remarks or jokes about your age	6.9%	69	7.6%	44	6.0%	25
6	Been treated without respect by clients or business partners due to your age	4.5%	45	5.3%	31	3.3%	14
7	Noticed the outcomes of your work being valued less/worse by your employer	4.1%	41	4.5%	26	3.6%	15
8	Been intimidated or humiliated because of your age	3.4%	34	3.6%	21	3.1%	13
9	Not been promoted due to your age*	3.5%	35	4.5%	26	2.1%	9
10	Been refused taking part in professional training	3.3%	33	4.0%	23	2.4%	10
11	Received lower salary due to your age	2.6%	26	3.3%	19	1.7%	7
12	Been fired because of you age	2.2%	22	2.6%	15	1.7%	7
13	Been demoted because of your age*	1.6%	16	2.4%	14	0.5%	2

Source: own study. N=1000, * = chi-square is significant at the 0.05 level

The survey in Małopolska shows that out of 13 questions about different incidents of age discrimination, only three were answered positively by more than 10 per cent of the respondents (see Table 1). Most frequently, the respondents experienced a type of ageism which included hearing negative and stereotypical remarks¹⁶ about older workers (almost 20 per cent) and hearing that they were 'too old' for something (13.8 per cent). These could be described as relatively mild types of ageist behaviours, which should nevertheless not be disregarded, since it was reported, on average, by almost 15 per cent of older workers and job seekers. Being treated without respect or as an object of impolite remarks or jokes was experienced by approximately 7-8 per cent of the respondents. As for this type of ageist behaviours, it is the frequency of occurrence which matters from the legal point of view. If such events are systematically being practiced at the workplace they can constitute mobbing or harassment (as types of discrimination), whereas an isolated case would not constitute discrimination. (Bodnar 2009).

The type of behaviour reported by respondents that could be characterised as direct age discrimination was the rejection in the process of job recruitment due to age, which was reported by 10.2 per cent of those interviewed. This type of conduct by the employer is illegal and could be sanctioned by the law, However, as is often argued by legal practitioners, it is extremely difficult to prove such a case (Bodnar 2009; Kędziora *et al.* 2009). Other types of age discrimination reported by the respondents were less frequent – from 1 to 2 per cent of respondents declared having been the target of such ageist conducts as, for example, being demoted or being fired because of their age.

All in all, the level of individually experienced discrimination is much lower (between 1 and 20 per cent) than the level of age discrimination a perceived by the group of older workers as an important problem in general (around 70 per cent), which was presented in the previous chapter. This discrepancy points to an interesting contradiction, where the group

level of awareness of the problem is much higher than the actual problem in question. This paradoxical results are not new and are actually in line with previous research (Eurobarometer 2012a; European Social Survey 2008), where similar patterns were observed. The scholarly literature describes this apparent inconsistency as ‘personal-individual discrimination discrepancy’ (Taylor *et al.* 1990; Taylor, Wright and Porter 1994) which is explained using psychological approaches. Thus, the lower level of individual versus group discrimination stems from the fact that discrimination is a particularly painful and oftentimes shameful experience, and in order to therefore manage the stressful situation, some coping mechanisms are activated. These could be denial or the minimisation of the memory of the discriminatory event in their lives, resulting in a factual or pretended removal of the hurtful memories. The authors of the ‘discrepancy hypothesis’ also point to the fact that the inconsistency might also be an outcome of an exaggeration and overrating of the problem of discrimination on the group level. The authors also indicate the information processes biases, which could possibly blur the picture of the actual scope of discrimination (Taylor *et al.* 1990). With regard to the results of the survey in Małopolska, these arguments could be incorporated as an explanatory instrument, in addition to what also seems to be a plausible argument made by Teresa Romer, a retired judge of the Polish Supreme Court. She argues that age discrimination is a highly ‘invisible’ phenomenon in Poland, due to the wide spread fear of losing one's job or other negative consequences (Szatur-Jaworska 2008). Therefore, the individuals not only minimise the experiences for their own sake, but also for the sake of the outside observer.

As in the case of age discrimination awareness discussed above, experiences of ageism in the workplace were also more frequently reported by women than by men. In all 13 types of discriminatory events, the women received negative treatment more frequently. This could be the result of actual higher rates of age discrimination of women in employment, or it could also be explained by referring to the concept of double jeopardy (Krekula 2007; Sontag 1972). It assumes that older women are exposed to two types of unequal treatment, namely sexism and ageism, which are interlocking and their sole effects are difficult to evaluate. The fact that women tend to experience discrimination more often than men, including age-based discrimination, has been proven by a plethora of studies (Calasanti/Slevin 2001; Duncan/Loretto 2004; Walker *et al.* 2007; Wilinska 2010).

The higher level of reporting age discrimination by females can indeed reflect the higher prevalence of discriminatory practices directed against them, but could also be explained by the data already presented above, namely by their higher degree of awareness of the problem of age discrimination in society in general. Their sensitivity to the issue of ageism could allow women to perceive and identify some events as discriminatory and thus report them more often than men, who were, on average, less aware of the problem.

To sum up, it seems that the social awareness of the problem of age discrimination is very high in Małopolska, as was also suggested by the European surveys on national samples. The recognition of the importance of this problem is definitely a promising ground for change in attitudes and behavioural patterns in society. Most likely, a large part of this result can be attributed to the effects of public campaigns regarding age discrimination, the work of a number of NGOs, as well as public debate on these issues. It is slightly more problematic to assess the results of the survey on personal experiences, since there is no comparative study, which could suggest the possible direction (increase or decrease of discrimination) of these changes. The Eurobarometer studies are not specific enough to be a reliable comparator, and there are numerous differences in the methodological approaches, which render comparisons impossible. It could therefore be recommended that surveys on workplace discrimination be carried out systematically to provide a picture of the dynamics of the phenomenon in time. Only such an approach has the capacity to monitor the changes in actual behavioural patterns in the labour markets with regard to ageist conducts.

Attitudes towards anti-discrimination law

The second part of the empirical analysis contained in this article refers to the behavioural potentials of the older workers with regard to reactions to unequal treatment. In the light of the European anti-discrimination legislation the opinions and attitudes about the practice of possible litigation by the respondents seem to be of high relevance to evaluation of the efficiency of the law in question.

Table 2. Knowledge of legal prohibition of age discrimination in work among older workers

		Have you heard of or do you know about the legal prohibition of age discrimination in Poland?			
		Yes		No	
		%	N	%	N
Gender	Woman	40.6%	236	59.4%	345
	Man	37.7%	158	62.3%	261
Age*	45-49	32.1%	94	67.9%	199
	50-54	40.7%	129	59.3%	188
	55-59	46.3%	119	53.7%	138
	60-64	39.1%	52	60.9%	81
Place of residence*	Big city	46.1%	142	53.9%	166
	Small and middle size town	41.1%	113	58.9%	162
	Country	33.3%	139	66.7%	278
Education level*	Primary	17%	9	83%	44
	Vocational	33.6%	91	66.4%	180
	Secondary	38.10%	162	61.90%	263
	Tertiary	52.60%	132	47.40%	119
Total		39.20%	394	60,80%	606

Source: own study. N=1000, * = chi-square is significant at the 0.05 level

As presented in Table 2, almost 40 per cent of the respondents declared they heard about the legal prohibition of age discrimination in the workplace. The diversity of the level of this knowledge spans across age groups, education level, as well as the place of residence of the respondents, which was supported by the statistical test. The highest level of legal awareness was among persons with a tertiary level of education (52 per cent) and those living in big cities (46 per cent). The highest level of knowledge could also be observed among employees in the age cohort 55-59 (46 per cent), and at 40 per cent, familiarity with the anti-discrimination law was relatively high among the younger cohort (50-54 per cent). The lowest level of knowledge was found among the respondents from rural areas (33 per cent), those with the lowest level of education (17 per cent), and in the youngest age cohort (32 per cent). The difference between men and women was slight – 40 per cent of women declared they knew the regulations, as did 37 per cent of men.

An important diversification in the knowledge of the anti-discrimination legislation was also observable among different occupational groups, which to some extent reflects the

education of the respondents, as well. Occupations such as specialists, managers, office workers were more aware of the existing prohibition of age discrimination – 46 per cent of the respondents answered positively. The higher level of knowledge among these groups can be related to their overall higher education level, but also to the positions they hold, namely leading companies or organisations, which corresponds with certain standards of training and education in legal areas, such as e.g. labour law. Representatives of groups such as manual workers and agriculture workers were among the ones with the smallest amount of knowledge of the regulations – on average, 27 per cent of them had heard of such solutions.

However, socio-legal theory and empirical assumptions draw attention not only to the cognitive element of the attitudes towards the law, i.e. knowledge and awareness of the legal provisions, which can render them efficient, but also to the behavioural element of the attitude, namely the readiness to take action on the basis of that knowledge (Skapska 1996). In this study, the behavioural component of the attitudes towards the law was exemplified by two empirical indicators: the notification about the discriminatory incident and the willingness to take the case to the court. The first indicator suggests possible ways of addressing the conflict, either in a formal (labour court, trade unions, non-governmental organisation) or informal (friends, family, colleagues) way. This approach clarifies the direction of the attempted action undertaken by the individual who had been treated unequally and suggests the level of internalisation of the legal norms related to unfair treatment. The respondents in the study clearly preferred the informal way of notification regarding discriminatory incidents they had faced, as the majority of them declared they only informed their family members, friends (58 per cent) and work colleagues (25 per cent) about the case. Only 8 per cent informed their supervisor, and as little as 3 per cent told the representatives of the trade unions, 1.4 per cent the NGOs and only 1 per cent a state institution responsible for the resolution of workplace conflicts (e.g. labour courts or the National Labour Agency). Such a result can indicate a deep distrust of state agencies as potential actors capable of resolving workplace conflicts related to discrimination. The lack of trust of the Polish judiciary is a well-established characteristics of Polish society, with substantial empirical and theoretical evidence (Kojder 2001; Turska *et al.* 1999). A national opinion poll presents data which suggest that only 14 per cent of respondents would trust a Polish court more than the European Court of Human Rights, whereas 72 per cent would trust the ECHR more (CBOS 2013). Additionally, only 28 per cent of Poles have a positive opinion about the functioning of the Polish judiciary, 47 per cent think it functions ‘rather bad’, and 15 per cent assess the Polish courts as functioning ‘very badly’. Most of the authors analysing social attitudes and perception of law after the political and economic transformation in Poland reiterate the fact that negative and critical attitudes always outgrow the positive and approving ones (Daniel 2007; Skapska 2002; Turska *et al.* 1999).

Another indicator of the inertia of Polish workers with regard to successfully claiming their rights to equal treatment is the willingness to bring discrimination cases to court (see Table 3). On the average, 45 per cent of the respondents declared they would bring a case to court, 26 per cent would not do it, and as much as 28 per cent said it was difficult to say. Interestingly, there were only slight differences among the respondents who were informed about the law – 48.5 per cent would make a court case, and among those who declared a lack of knowledge about the anti-discrimination law, 43.4 per cent would file a complaint in court. Thus, there is not enough evidence to assume that legal awareness would stimulate individuals and trigger more pro-active legal behaviour. Worth emphasizing is the high rate of persons who were undecided about legal action, which could be taken as a reflection of the general level of legal awareness in Poland, but can also be attributed to the aforementioned lack of trust of the law and the legal system.

Table 3. Readiness to bring a discrimination case to court

		In a situation where your employer violated your right to equal treatment established in the Labour Code, would you bring a case to court?							
		Yes		No		I do not know/ It is difficult to say		Total	
		%	N	%	N	%	N	%	N
Declared knowledge about the anti-discrimination law	Yes	48.5%	191	26.9%	106	24.6%	97	100%	394
	No	43.4%	263	26.6%	161	30.0%	182	100%	606
	Total	45.4%	454	26.7%	267	27.9%	279	100%	1000

Source: own study. N=1000.

The results of the study triggered further discussion and questions about the level of social awareness of the problem of age discrimination. It seems that most of the respondents were aware of the social problem, which was reflected in their answers to the question about the importance of this problem in Polish society, but also the fact that they would often complain about such events to someone, mostly a family member or friend, but also to a supervisor or colleague. This shows that the problem is perceived as being in need of some sort of solution; however, the low level of willingness to report to some institutions indicated that there is lack of trust in these types of agencies. Moreover, there are other reasons which hinder the individuals from filing a complaint or a case of discrimination in a court. Based on the answers of respondents in the survey in Małopolska, these reasons can be divided in three categories: work-related reasons, institutional reasons and personal reasons. In the first group, the respondents in Małopolska mentioned fear of losing their job, preference for an amicable way of settling the case with the employer, resignation from the job and a wish to avoid troubles. In the second category, the interviewed employees talked about obstacles such as the conviction that the case would not be won in court, waste of money and time for formal proceedings, and a lack of trust in the courts. Among the personal reasons, the most common reason was the preference for tackling the problem alone, one's own dignity, advanced age, a lack of confidence and health problems. These arguments suggest that analysing the efficiency of the legal prohibition of discrimination is a multifaceted task and should be approached from many angles, since not only institutional, but also personal and work-related motivations play an important role in the decision making process.

Conclusions

The awareness of the problem of age discrimination seems to have risen in recent years due to its increasing presence in the public discourse, which started slowly after the accession of Poland to the European Union. However, even at that time, in 2004, the topic was touched upon only briefly and was treated as a rather complementary point on the agenda of policies against unemployment. Secondly, the vast immigration of young adults after the accession, mostly to UK and Ireland, resulted in shortcomings in the labour force and turned attention towards older workers as a potential solution to this problem. Another wave of political interest in the issues of older workers appeared when Poland was obliged to implement the European non-discrimination directives. As was expected from a candidate state, this had

been done before accession, however, later amendments and corrections were necessary. The accession and the influx of European funds have also altered the economic and political conditions for the work of various third sector organisations, which are oftentimes responsible for educating different social actors and disseminating information about anti-discrimination regulations. NGOs have also largely contributed to increasing and broadening the scope of research on discrimination and equality (Kędzióra 2010; Schimanek 2010).

However, as presented in this article, only starting in 2008 were more concrete solutions and public policies responding to the challenges of aging populations implemented in the national strategies, and their impact has only just started to be measured and evaluated. With regard to the way the anti-discrimination legislation was drafted in Poland, the vast negative feedback it received, as well as the preliminary results from the monitoring studies, suggest that the reform has so far had little practical impact.

The results of the study in Małopolska, showing the levels of age discrimination perceived by the older workers, make clear the fact that the phenomenon is still present in Polish work environments. The extent of discriminatory experiences ranged from 20 per cent, in the case of milder types of infractions, to 1-2 per cent, when dealing with more severe cases, such as being demoted or fired because of age. The higher prevalence of certain behaviours not considered to be direct forms of discrimination in the understanding of the labour code, and much the lower presence of direct types of discrimination, suggest that they might be related to the awareness of what is prohibited and what is not. It is nevertheless hard to evaluate the extent of experiences of age discrimination in relation to other time periods, due to the lack of comparable longitudinal data in this area.

The unwillingness to bring a case to court, as well as the tendency to limit those who are informed of infractions to one's closest circle of friends and family reflect the typical distrust of the law and courts, which has characterised Polish citizens since transformation. Before that time, the data on trust in the authorities would not have been reliable and is therefore not cited. Therefore, a question remains, namely whether the legal prohibition of discrimination in the labour market will have an effect in the form of changing social practices. Moreover, so far, the experiences with the implementation of the right to equal treatment suggest that only those who are already privileged – young, educated, and with enough social and financial capital – are claiming their rights, whereas the groups which are in need of more protection are remaining silent (Macnicol 2006; Kłos 2011). As stated by Jonathan Herring (2011) in his conclusion to evaluation of international anti-age-discrimination legislation, it is unlikely that the fortunes of older workers will improve dramatically because of such laws. As evidence from the US suggested, the law prolonged the employment of the older workers, but it had little effect on ensuring that older workers would be hired. Moreover, the negative attitudes and stereotypes regarding older workers are also difficult to alter by legislation only and should therefore be supported by other policy measures (Herring 2011).

Moreover, the effectiveness of the anti-discrimination law can also be hindered by the difficulty in obtaining evidence of discrimination. It is especially problematic in two situations. Firstly, in the case of recruitment process where the job seeker has most often virtually almost no access to information regarding the other applicants and thus cannot compare characteristics related to his/her skills and age in order to assume if there indeed could be a case of discrimination. The other type of practices, which are difficult to prove in court are the milder types of discrimination, such as jokes, ageist remarks, or other types of indirect discrimination, which nevertheless are also harmful to the individual and can have serious consequences. These types of practices were described as 'discrimination up in the air' - tangible, but difficult to catch and prove (Schimanek 2010). However, although in such cases the legislation might have a limited impact, so-called soft laws and positive action can bring about change in social practices and make the workplaces a safe and friendly environment.

Another factor which might influence the efficiency of implementation of equality regulations, is simply time. Age discrimination is still perceived as a relatively new phenomenon in public debate, when compared to discrimination based on sex, race or

nationality. Already in the 1960's, when Robert Butler was coining the term 'ageism', he described it by comparison to sexism and racism (Butler 1969). Furthermore, in European equality legislation, gender, race and nationality were the first grounds to be covered and protected from discrimination, and they are therefore also better established in policy settings, but also in the social mindset. When asked about the prohibition of discrimination in the labour market, the interviewed employers first mentioned women, and particularly the case of young women as potential mothers, who are the group most threatened with discrimination in the labour market (Stypińska 2012, unpublished). Age discrimination is still a relatively new concept used in a policy framework, whose meaning is not yet entirely clear both to employers¹⁷ as well as employees, and it is possible that the desired positive effects of the legislation will need more time to occur.

This paper attempted to cast some light on the problem of age discrimination in order to improve the understanding of the concept from a socio-legal perspective. Bridging these two perspectives is inevitable, if considerations are to be made regarding the efficiency of the legal provisions in social practices. In order to establish a sound method of evaluation of the implementation of anti-discrimination laws and its functioning in practice, insights from legal practitioners, social scientist, as well as policy makers are necessary. Efforts to increase social awareness of the problem is without a doubt essential, but it seems that it is the *understanding* of the concept of age discrimination that is of primary importance to the successful implementation of the law. As was pointed out accurately by Ewa Łętowska, 'It is not enough to change the text of law. It is necessary to work to change the understanding of the law' (Łętowska 2013: 13).

Notes

1. Or: *equality legislation*, as will be also referred to throughout the text.
2. The pension system reform from 2012 introduced new retirement age – 67, for both men and women. The retirement age will increase systematically by few months every year with the end effect in 2035.
3. The literature on productivity of the older workers is contradictory and not conclusive. The productivity has the tendency to drop around 50 years of age, but this depends greatly on the occupation type (Perek-Białas *et al.* 2010).
4. These have been severely restricted in the recent years and are no longer available for many status groups (e.g. teachers), but have nevertheless been an important factor for many previous cohorts.
5. The realisation of the entire program is scheduled until 2020.
6. This was proposed for example by the umbrella initiative 'Coalition for the Equality of Chances' (*Koalicja na rzecz równych szans*), which represents many organisations active in the area of anti-discrimination.
7. Other grounds are: religion or belief, disability and sexual orientation.
8. For a more detailed analysis of the implementation of the European regulations into the Polish legal documents see: (Bodnar 2009; Kędziora *et al.* 2009; Kłós 2011; Stypińska 2008).
9. Małopolska region was chose for the study due it its relatively high employment rates among older cohorts, and low unemployment in the region in comparison to other regions in Poland. The region was also a beneficiary of various policies and programs targeting the activity of older people in the labour market. This approach was supposed to help avoid extreme negative opinions about the chances of older people in the labour market, which could be found in other regions of Poland and which could present an uneven and biased picture. The realisation of the survey on national level was not possible due to financial restrictions of the research grant.
10. The question related to the last workplace of the respondent.

11. The questions were to some extent formulated based on interpretations of the Labour Code and its understanding of discrimination in employment.
12. The Małopolska region is located in the south of Poland with population of 3.3 million. This region was chosen for the study to allow comparability with the qualitative data also gathered in this region. Secondly, also due to the relatively low unemployment rates among the population, which would not produce biased results, which could be the case in areas with high unemployment and thus high level of dissatisfaction with the situation in the labour market.
13. The definition of 'economically active' persons can vary according to the source it derives from. The most commonly used definition is the one of Central Statistical Office (CSU) in Poland, and it defines the economically active persons as either employed, self-employed or active job seekers between the ages of 15 and 59 (for women) or 64 (for men). This definition was broadened for the purpose of the survey and included persons who were retired or received sickness or disability benefits, but declared they were still active in the labour market. The ultimate purpose of the process of building the sample was to include all persons aged 45-65 who were doing any type of paid work in the past 12 months.
14. The division into economic sectors is based on NACE sections recognised by the Central Statistical Office in Poland.
15. The cycle is still partially available online at: <<http://wyborcza.pl/0,95754.html>>.
16. It needs to be bear in mind that not only employers are the perpetrators in these cases, as it is often framed in the discourse or legislation. The discriminators can be the work colleagues, managers, business partners, or clients.
17. One of examples of misunderstanding of what anti-discrimination legislation is and how it should be applied was the employer who understood is as a compulsory hiring of persons over the age of 50 in his company (Stypińska, 2012, unpublished dissertation).

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