

Discrimination against young people

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Youth rights

- ▶ EU Charter of Fundamental Rights Art. 21, TFEU Art. 19
- ▶ EU legal protection against discrimination in the field of employment – Directive 2000/78
- ▶ Mangold case: non-D based on age is a general principle of EU law
- ▶ European Convention on Human Rights, Article 14: age not mentioned specifically, ECtHR found it is included in 'other status'
- ▶ Policy documents and programmes at UN, CoE and EU level

Direct discrimination

- EU law: '*Direct discrimination shall be taken to occur where one person is treated less favourably than another is, has been or would be treated in a comparable situation on the ground of a protected characteristic*'
- Key elements:
 - Less favourable treatment
 - In a comparable situation (comparator)
 - Related to a protected characteristic
 - Except if: specific exemptions (EU); objective and reasonable justification (ECHR) – note the high number of potential exemptions for age D

Indirect discrimination

- EU law: '*Indirect discrimination shall be taken to occur where an apparently neutral provision, criterion or practice would put persons having a particular protected characteristic 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.*'
- Key elements: apparently neutral rule; particular disadvantage for persons with a protected characteristic compared with others
- General defence: objective justification - legitimate aim, appropriate, necessary

Harassment

- EU law definition: *‘Harassment shall be deemed to be discrimination [...], when an unwanted conduct related to any protected ground takes place with the purpose or effect of violating the dignity of a person or creating an intimidating, hostile, degrading, humiliating or offensive environment.’*
- ECHR: no definition, but certain articles (e.g. Art. 3 or 8) could be relevant in case of certain types of inhuman/degrading treatment or violation of private life with a discriminatory motive.
- Key elements:
 - Unwanted conduct
 - Related to a protected ground
 - Purpose or effect described

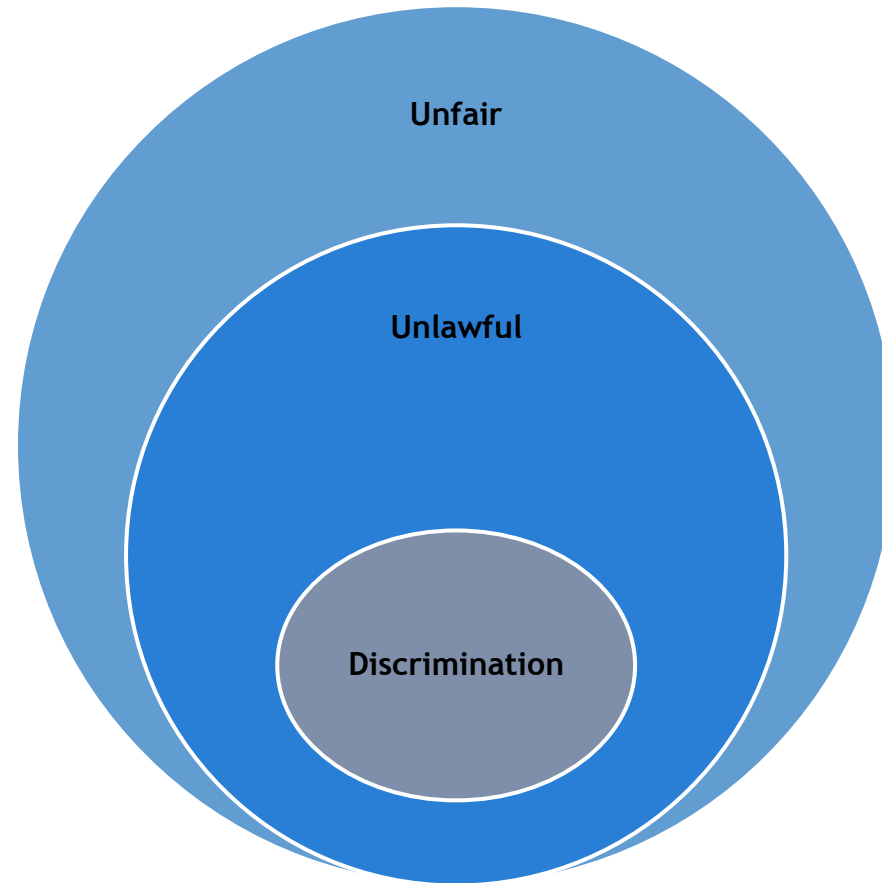
Case law

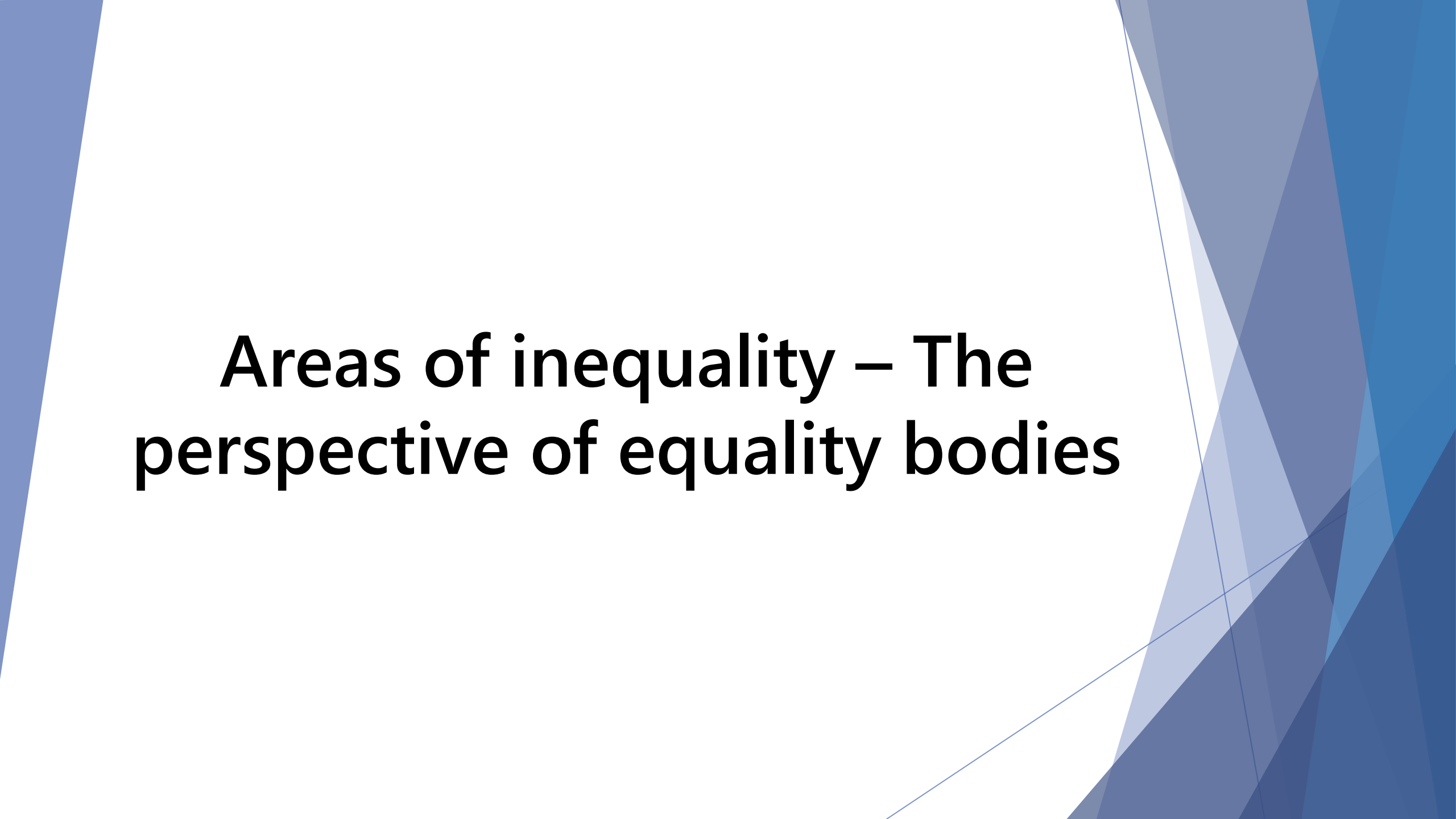
- ▶ Majority of cases is brought on the basis of older age (e.g. no severance payment if also eligible for old-age pension) or age limits (e.g. police, fire service, pilots)
- ▶ However, see e.g. Küçükdeveci case (C-557/07): National legislation on dismissal not taking into account the period of employment completed before the employee reaches the age of 25 in calculating the notice period is contrary to the Directive

Equality bodies & Youth rights

- ▶ No EU legal protection beyond employment
- ▶ No legal requirements at EU level to set up EBs
- ▶ **In practice:** majority of EBs dealing with age discrimination but low level of cases

Discrimination or inequality?





Areas of inequality – The perspective of equality bodies

Economic domain

- Access to resources
- Access to employment
- Access to housing, financial services, social protection

Political domain

- Lack of power, voice and autonomy

Cultural domain

- Stereotypes, increasing risk of discrimination

Social domain

- (Sexual) harassment, bullying, segregation

Thank you!

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