

Discrimination problems of retirement age employees

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Abstract. It is shown that there is an increasing number of people of retirement age; however, they face great obstacles in the labor market. Different types of age discrimination are named: open and indirect discrimination. The analysis of internal and external factors of integration of retirement age people into the labor market is given. The main causes of discrimination of people of retirement age are shown. The basic problems in the labor market of elderly workers and possible ways of their solutions are given.

Relevance

The role in the formation of society labour resources of retirement age employees nowadays is changing. This happens due, on the one hand, to the increase in life expectancy and a decrease of birth rate, especially in developed countries.

Currently about 70% of the population of industrialized countries have life expectancy more than 65 years, 30-40 % - more than 80 years. The average life expectancy in Russia in the late XIX century was 32 years, in the USSR in the late 20-ies was 44 years, in the late 50s – 69 years, in the early 70s – about 70 years. In Russia, the share of persons over 60 years old in 1990 was 16.5 %, by 2010 it had constituted 18.2 %, and by 2030 it will be 25.8 %. However, Russian men live for 15-17 years less and women for 7-10 years less than in Western Europe.

In the Russian Federation, according to official data, employment of older people is growing since 2002 and now covers about a quarter of all people of retirement age. Especially a lot of older workers are employed in such fields as science, culture, education, health and social services. There are more people of retirement age among entrepreneurs as well.

With the increasing number of older people, it is necessary to elaborate the social policy of using human resources on the labour market. Therefore, some CIS countries went the way of a gradual increase of the age of retirement. Direct extension of the retirement age is provided, but, as a rule, not a one-time extension but a gradual annual increase of three to six months. Decisions about increasing the age of retirement to 63 to 65 years for men and 58 to 63 years for women are accepted in Azerbaijan, Armenia, Georgia, Moldova, Kyrgyzstan and Kazakhstan.

Currently the topic of raising the retirement age is discussed in the Russian Federation and the demand for older workers in the labour market is particularly relevant. However, today the older people, who wish to remain in the labour market, face a number of obstacles. This is both open and hidden discrimination, the inability of the working environment to fit the needs of the older staff, both healthy and those with health problems.

In the field of labour relations, it is necessary to capture a large number of differentiating criteria, many of which are functionally necessary. This is the difference in the level of qualifications, skills, capabilities, experience, attitude to work and much more. Discrimination is also, essentially, a form of differentiation, but it is only recognized as unacceptable from the point of view of society. Discrimination describes such differences as gender, nation, race, religion, political beliefs and other, resulting in a loss of equality in opportunities and the denial of civil rights. This position is fixed in the Constitution (article 19) and the Labour code (article 3). The Labour code of the Russian Federation lists 15 prohibited grounds of distinction and the list is not complete, i.e., other grounds can be added.

The concept of discrimination

By definition of the International labour organization (ILO), discrimination in respect of employment and occupation means a different and less favourable treatment of persons because of their inherent characteristics, not related to their merits or the requirements of this work [1]. Discrimination in the workplace not only enhances the problem of poverty, but also generates it, and the process of elimination one way or another affects all of us, discrimination impedes both

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socio-economic progress and individual development. Thus, in the sphere of labor relations there are reasons to differentiate between admissible features and there are those which are considered inadmissible, i.e. leading to discrimination. Differentiation on the basis of unacceptable grounds is discrimination which includes most commonly gender discrimination, age, national, religious, political, etc.[6].

Among these forms, the age discrimination is the concern of the ILO and its social partners. Age discrimination differs from other types of discrimination because every person will eventually fall into a discriminated group. The occurrence of ageism (age discrimination) in the social-labour relations is primarily due to prevailing negative stereotypical images of the older person, with an intolerant attitude towards older employees, with the reluctance of managers to adapt to inevitable age-related changes of personnel.

In Russia employment discrimination began to be studied only in recent decades, because in the Soviet ideology was no place for such phenomena. Today, employment discrimination is an object of numerous researches of domestic scientists, but most of them primarily consider only one of its forms: gender-based discrimination. Meanwhile, age discrimination is most typical for the Russian labour market and this issue requires immediate solutions.

The most important document of the last time - the ILO Global report of General Director "Equality in employment – the imperative of our time" (international labour conference, 91st session, 2003) [2] notes that age is the determining factor of discrimination in the labour market. Speaking about global demographic changes, the authors of the report note that the population of developing countries still remains relatively young, while the population of developed countries is relatively old: it is assumed that by 2050 33% of the population in developed and 19% of the population in developing countries reach 60 years of age and more, and the number of the latter will be 1.6 billion people, i.e. more than 80% of the elderly population of the world. The trend predominance of women among the elderly population continues, their share will be 55% among the elderly over 60 years of age and 61% in the age group of 80 years and older.

Different countries have different retirement age and it may be different in one country in different industries. Everywhere, however, older workers face discrimination, albeit for different reasons.

Types of age discrimination

Open and indirect discrimination are allocated.

Open discrimination in this area is expressed:

- in establishing hiring with the age limit;
- in the statement of the employer that an older worker cannot "get a promotion" or that she/he "has too much experience";
- in the age restrictions in hiring women;

- in replacing older workers by young labour force in those cases where salary increase depends on age.

Indirect discrimination is found in conditions when forcing older workers to retire early, for example, offer options of voluntary retirement, followed by an oblique pressure.

There are various factors that promote inclusion of people of retirement age into the labour market: internal (subjective) dependent on the pensioner, and external, which is related to the state of the external environment (table 1).

Table 1. Factors of integration of people of retirement age into the labour market.

Internal factors	External factors
Psychological factors, i.e. the willingness of the person to participate in the labor activities	Demographic factors determining the demand of the economic system in labour potential of persons of retirement age
2. Medical factors (state of health), i.e. the absence of diseases of different nature which can prevent a person to take part in some activity	2. Political factors reflecting the attitude of the authorities to the processes of inclusion of people of retirement age into the labour market, i.e. defining the national strategy for the protection and support of the citizens
3. Professional, i.e., the presence of knowledge, skills, experience, allowing the retirement age individual to participate in the production process	3. Legal factors that form the necessary normative-legal base of the processes of inclusion of people of retirement age into the labour market
4. Economic factors: the welfare level of the pensioner, the income level, structure of needs, availability of dependents, etc.	4. Infrastructural factors reflecting the state of the infrastructure necessary for the inclusion of people of retirement age in employment (for example, centers of retraining, the presence of specialized units in the employment centers, etc.)
	5. Social factors reflecting the attitude of society to the processes of inclusion of people of retirement age in the labour activities
	6. Economic factors: industry and a vocational qualification structure of the

	labour market, demand and a demand structure in the labour market, the unemployment rate, the state of the pension system, etc.
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Causes of discrimination

Experts in the field of employment discrimination revealed a wide range of reasons that, in their opinion, cause discrimination, such as:

- economic reasons, the need for savings;
- the imperfection of the law, a legal mechanism;
- unfair state policy in the field of labour and employment;
- the absence of effective state control in the field of labor relations;
- lack of legal knowledge, economic culture of the participants of labour relations;
- personal views, interests and biases of managers that form the employment relationship.

Economics, law, culture is such a wide range of reasons that can not be rated definitely. Although, if discrimination is a common, complex and diverse phenomenon, then there cannot be one simple reason for it to exist. In this case, a complex of reasons must act.

Formation of market relations in Russia has led to increased discrimination against older workers in employment. The enterprises' struggle for survival has made them prime candidates for dismissal and the last - when applying for a job.

Despite legislative guarantees of equality in employment (article 3 of the labour code - no one may be restricted in terms of labour rights and freedoms, including based on the grounds of age), the following trend is observed: age of the candidate becomes almost a determining factor during hiring. The vast majority of organizations are practicing various forms of harassment of employees of pension age and even those close to retirement age. Moreover, the better working conditions and higher wages are in the company, the greater the restrictions on the rights of workers are applied to workers who had reached this age [3]. The current policy on the Russian labour market for older employees leads to poor management of human resources, thus affecting the enterprise and the economy as a whole [4]. Russian companies who care about the future need to pay attention to the current demographic trend in the country. Namely, the decreasing fertility and increasing life expectancy is leading to a shortage of a young labor force and increase in the working age.

Legislation against discrimination

There are types of legislation that include anti-discrimination provisions. They are the Constitution, labour legislation, legislation on non-discrimination and equality. In the Russian Federation, these are the Constitution of the Russian Federation, as well as labour legislation that prohibits discrimination. In article 3 of

the Labour code of the Russian Federation "discrimination Prohibition in the work sphere" it is stated that "nobody may be restricted in labour rights and liberties" regardless of sex, age, nationality and so on.

Moreover, article 64 of the Labour code expressly stipulates: "unjustified refusal to conclude an employment contract is prohibited ". Moreover, the refusal to conclude employment contract is unjustified if it is not based on the estimation of business qualities of the person applying for work (except for the cases stipulated by the Federal law).

An overview of the types of legislation allowed us to identify two approaches in developing anti-discrimination legislation: a) addressing issues on different grounds of discrimination allows creating separate anti-discrimination legal regimes and individual mechanisms and institutions to enforce the law (the UK), b) the adoption of a uniform law on the prohibition of discrimination and on equality (Australia, the USA).

However, an anti-discrimination legal model, being successful in eliminating direct discrimination, resulted in being not effective when dealing with indirect one. You should pay attention to the labour Inspectorate as the main enforcement mechanism for the legislation. Canada is one of the countries that have created a single mechanism for resolving issues of discrimination in various forms, including labor.

The solution to the problem of discrimination

The problem of social protection of persons of retirement age is observed in European countries, which are experiencing rapid population ageing. Some countries are looking for a solution in the process of labour immigration from countries outside the EU. But, according to polls, 80% of employers are unwilling to hire people over 55. But there are also positive examples. Thus, in Denmark, people approaching retirement age (61 years) are entitled to receive full wages in 90% of employment cases, and are able to receive an additional 5 days of vacation.

In Germany the state stimulates the underemployment of older people. Workers after 55 years may (by agreement with the employer) halve the length of the working day (to work half a day, a week, two weeks, six months or a year and a half of three years) and receive 70% of earnings (83% for the civil servants). The actual 20 percent of premium - Aufstockungsbetrag - has no income tax as well as any mandatory pay of social insurance contributions. At the same time, in Germany experts note the presence of such forms of discrimination of the older workforce as planning HR policy taking into account the age of employees, distribution of job duties depending on the age, unwillingness of employers to retrain and to improve the professional level of the elderly.

Currently there is an urgent need in formation of a new, positive image of old age in society [5]. Today's reality makes clear the division of old age into two periods: "young old age" (55 to 75 years) when the

person is still active, full of strength and desire to work, to be useful to society, and "old age", when the main objective becomes self-service. Of course, that age limit when young people move from one category to another is very individual. In social gerontology the term "young olds" often appears. In fact, representatives of this group have a high level of professional training, a great life and production experience, activity, desire to work. However, according to the date of birth, individuals belong to the so-called post-labour age, the name of which puts an end to man's quest for integration into the professional space.

It is necessary to change the attitude of society to this problem, introducing a new, positive image of old age, including through the media. Integration of older people in professional and business sphere will be possible only when the old age in modern society will be rehabilitated.

Robert Butler, a Director of the National Institute of aging (USA), suggested the scientific use of the term "ageism", which outlined the prejudice against older people [6].

Ageism (discrimination) of older people in Russia has always existed. In the coming years the country will face the problem of an aging population and reduction of the number of working age Russians.

The problems arising in the use of labour potential of older persons can be divided into two major groups. The first includes those that occur directly in the labor process, they are primarily associated with psychophysical characteristics of older workers. The second group will take the problems that are associated with the characteristics of older workers as participants in the labour market: employment, labour mobility, discrimination, training etc. and will consider them in more detail [7].

The elderly on the Russian labour market faces the following challenges:

1. They also, like their foreign peers, are influenced by gender and age stereotypes, treated as people being "on the edge". The experience of developed countries shows that it is possible to deal with such "prejudices" and it has been done before quite effectively. For example, it is prohibited in France in advertisements for job vacancies to specify the age limit; in the UK even age hints is invalid (like, "an energetic and ambitious are required", "experienced" or "recent graduates"). In Germany there is discrimination on age during employment. Back in 2010 the German Federal court deprived employers of the right to set age limits for candidates when applying for a job [8].

2. Elderly and old workers are considered to be ineffective. Carriers of this stereotype are the employers, as well as a certain proportion of the elderly population. It is important to emphasize that people of retirement age, both men and women, become "unfit". Although it is obvious that professionals who are over 50 have rich experience, practice, and ability to foresee and mitigate risks.

3. The share of older workers in total employment is small. The absolute majority of the economically active population characterizes the total supply of labor in the economy at a given time. *Ceteris paribus*, it depends on

two critical parameters: the absolute population size and the level of its participation in the economy. In the EU the proportion of working retirees after age 65 varies significantly from 2.5 to 14.5 %. Minimum employment of pensioners is characteristic for the Netherlands and Austria [8]. The potential of older persons is a certain base for the further development of society because as a result there will be more resources and the possibility of self-realization for older people.

4. Older workers rarely seek employment through the employment service. The employment of pensioners is not time-constant and varies within a wide range. Elderly people constitute an insignificant part among the job seekers through the employment service.

5. Employment in old age is closely linked with the level of education of people. From half to two-thirds of working retirees have a special or professional education. According to the Russian census of 2002, the following pattern can be set: the higher the level of professional education is, the more elderly Russians are still active in the economic sphere.

6. Poor health was almost three times more often the cause for termination of employment than structural changes [9-11].

7. In all age cohorts (from 60 to 63 years old) women have a more restrictive disability than men. This may be the cause of lower motivation of older women to participate in community-organized labor.

8. A significant proportion of elderly Russians have no opportunity to engage in the labour market. At low levels of residual disability and the lack of opportunities to replenish outdated knowledge and skills.

9. The motivational system of employment is changing. The leading motivation for employment in old age is the desire to improve a financial situation. This is the main motive to continue to work for 46.7 %. More women than men go to work for this reason. However for 20.9 % a good team is important, 14.5 % – just "work" itself, for 13.7 per cent – an interesting job, and only for less than 1 % (0.8 %) – the prospect of professional growth.

There are good experiences with the aged employees in Russian companies. For example, over the past five years, the number of age-consultants of the Agency network of the macroregional branch "Volga" has literally increased from 1% to 38%, and this figure is growing steadily. For comparison there are 54% of young agents in the company. Agents are customers, former members of the social projects of the company, for example, the project on improving computer literacy "Grandma online, grandpa online". Some address the centers of sales and services with a request to find a part time job, and some people find a job online. In "FIJI" about 30% of employees are older than 48 and 70% are over 30 years old. The smallest age group at "FIJI" are people at the age of 35-40 years. "We believe that the "aged" employees over 45 years old are the "gold standard", which allows us to be consistent and efficient," commented CEO, an art Director of brands LO and JN of the company "FIJI", Jan Nedzvetskaya [5]. And this is understandable, as age workers have a number of advantages, due to which companies can be

easy and convenient to operate with. In the list of such benefits employers usually include the following: the ability to separate the important from the unimportant, the ability to put the job in the first place, the ability to work independently and to take responsibility, the ability to find common language with clients, colleagues, partners, the ability to work by standards.

Thus, an important factor of economic development is to harness the employment potential of older workers. Those employers who can overcome age-related stereotypes and exclude age discrimination from its personnel policies will be able to transfer the professional experience and skills to young professionals and will only strengthen their position.

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