

# The European Union Agency for Fundamental Rights and multiple discrimination in health care

by Barbara Giovanna Bello

*A conversation with the EU Agency for Fundamental Rights (FRA) expert Henri Nickels, Head of the Equality and Citizens' Rights Department*

## Does FRA look in any particular way at young people as a target group of multiple discrimination?

FRA carried out research into how “multiple” discrimination is legally addressed and examines relevant case law with a special focus on health care. It explored health-care users’ and professionals’ views and experiences on how people of different gender, age, disability and ethnic origin experience discrimination and multiple discrimination when accessing the health system in Austria, the Czech Republic, Italy, Sweden and the United Kingdom. In the research, young adults between the ages of 18 and 25 with a migrant/ethnic background were interviewed. The young adults also had intellectual disabilities and had various health problems and physical and sensory disabilities.



## Do you think multiple discrimination should be considered in youth policy making? Why? How?

Yes, policy makers should particularly address youth when shaping policies as young people can be especially vulnerable to multiple discrimination in health care. This can be due to limited access to health services, including routine medical treatments, which in turn can lead to health inequalities especially for those people with disabilities. In addition, young women with a migrant or ethnic minority background can be at risk of multiple discrimination when it comes to sexual and reproductive care.

## What are the main challenges you identify in the fight against multiple discrimination?

Discrimination based on more than one ground is addressed in legislation in very few EU member states, and it is not always defined as “multiple discrimination” but rather tends to be limited to “dual” discrimination covering two grounds. Although the concept of multiple discrimination has not yet achieved a distinct legal status, the challenges it poses to society are recognised among political institutions and civil society organisations in the EU. While existing EU directives relating to equality do not expressly oblige EU member states to treat multiple discrimination as a distinct category of discrimination, the concept is covered by secondary EU law. In recent years, we have seen a growing number of equality bodies and legal practitioners in EU member states that have begun to frame cases in terms of multiple discrimination and to collect data on cases alleging discrimination on a number of grounds. Multiple discrimination is still a relatively new concept in the equality field but awareness of it is on the rise.



***What challenges did you find (if any) when persuading the EU and other institutions to integrate the concept of multiple discrimination in their policies?***

FRA research found that uneven protection and legal ambiguity make it hard for “multiple” discrimination cases to be brought to court. In health care, EU antidiscrimination law protects against racial and sexual discrimination, but not against discrimination for age, disability or sexual orientation. In addition, lawyers often do not file health-care complaints as discrimination cases, due to lower compensation compared to, for example, medical malpractice suits.

On top of that, low levels of awareness of how and where to complain makes access to justice difficult. Victims are often uncertain where to go for help: either health complaints bodies or equality bodies which are responsible for ensuring equal treatment for all citizens. There are also low levels of trust in the effectiveness of existing complaint systems in health care as well as fear that filing a complaint will lead to worse treatment by health-care staff.

When it comes to health care, the varied needs of health-care users are not always considered. Health-care systems may (unintentionally) create barriers in access to health care or provide health care of varying quality to people who share more than one recognised trait, such as sex, age or membership of a minority group. In addition, current health statistics are insufficient to accurately assess the extent of disadvantage of groups that share multiple characteristics.

***What strategy has FRA identified (if any) to make institutions aware of multiple discrimination?***

Member states should increase awareness among health-care users of complaint mechanisms. In turn, complaints bodies should facilitate access to justice through better provision of information in different languages and formats. Referral mechanisms between health and discrimination bodies should also be strengthened.

***What possible solutions to end multiple discrimination do you recommend?***

Providing equal protection in health care against discrimination on all grounds would be an important first step towards effectively addressing “multiple” discrimination. This issue is addressed in the “horizontal directive”, a piece of legislation currently under discussion at EU level that would extend protection against discrimination beyond the area of employment to cover the grounds of religion or belief, disability, age and sexual orientation.

For existing antidiscrimination laws to be effective, courts need to impose dissuasive penalties and award proportionate compensation for discrimination cases. This would encourage more people, and their lawyers, to bring discrimination cases – including “multiple” discrimination – to court. Member states could also explore more effective ways for all health-care users to be treated equally, with dignity and respect. This could include antidiscrimination training for health-care professionals, free linguistic and mediation services and outreach programmes to minority ethnic groups and people with disabilities. In addition, anonymised data on ethnicity and disability should be collected in national surveys to help reveal multiple inequalities and disadvantage in health care.

***Would you like to send a message to the young readers of Coyote who want to engage with the topic of multiple discrimination?***

We just need to think that back in the 1970s it was very controversial for young people to protest against discrimination based on gender identity or sexual orientation, to name a few examples. The situation nowadays is different but the fact is that discrimination still has a lot of layers that make it difficult for minorities to get a leg up. The past tells us that it is possible to make changes. Hopefully Coyote’s young readers will experience positive changes if they trust in the power of standing up for their rights.

The European Union Agency for Fundamental Rights (usually known in English as the Fundamental Rights Agency, FRA) is a Vienna-based agency of the European Union and was inaugurated on 1 March 2007.

For information on the FRA, please see: <http://fra.europa.eu/en>

