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“SITUATION TESTING” DISCRIMINATION IN ACCESS TO EMPLOYMENT BASED ON ILO METHODOLOGY

BACKGROUND

The ILO is mandated to elaborate, promote and monitor implementation of international standards regarding treatment of labour; to provide orientation and technical assistance to its tripartite constituents; and to address contemporary issues affecting workers, employers and governments world-wide. In this context, ILO has addressed the treatment of migrant workers since its founding in 1919, and has elaborated standards and measures to uphold workers basic rights and dignity and to protect them from all types of discrimination in employment.

Rights of (im)migrant workers to equal treatment and full equality of rights with national workers are often provided for in national legislation. However, regular migrants' equality of opportunity and treatment and non-discrimination in daily working life are not automatically guaranteed through legislation alone. In many receiving countries, troubled individual and group relations hinder integration efforts, particularly when immigrants are unable to obtain employment corresponding to their abilities.

Employment is a fundamental means of participation in society, and discrimination implies a waste of valuable human resources. Thus, discrimination in access to employment not only endangers the success of any efforts with regard to the migrants' integration, but also leads to social tensions and economic loss for individual enterprises and the national economy as a whole.

Discrimination may occur unintentionally, such as when employers recruit on the basis of the recommendations of workers already present in the firm, thus disallowing others the opportunity to apply. Discrimination also occurs intentionally if it is not perceived as a contravention of existing legislation and/or a human rights' violation. Furthermore, discrimination may result from attitudes or behaviour in trade union and community organizations. It would be a serious mistake to regard numbers of formal discrimination complaints as a true representation of its incidence. Victims of discrimination, particularly those who may be uncertain of their rights as non-nationals, are often unaware of or intimidated by official grievance procedures. Thus, situation testing has been developed by social scientists as a research method to monitor the effectiveness of legal measures and to assess the degree of compliance with the law.

PURPOSES

The ILO has developed a unique experimentation methodology to measure discriminatory behaviour in actual practice, in order to help member governments and social partners recognize and understand discrimination in the labour market. The data obtained from “situation testing”, sometimes referred to as “practice testing” is an essential resource to demonstrate the nature and extent of discriminatory behaviour actually taking place in the labour market at one of its most crucial points: access to employment. The results of this research are thus critical to motivate action and to shape effective remedies. The ILO situation testing studies have usually been mandated and financed by a national government agency or ministry with

responsibility to address discrimination, particularly in employment, with a clear intent to use the study results to improve national legislation, administrative measures and stakeholder practices.

ILO testing research has had significant impact in countries where it has been conducted. For example, in Belgium, the ILO study was credited with shaping the content of national legislation adopted in 2003 to put into effect the EU Directive on racism (Council Directive 2000/43/EC). Campaigns against discrimination were established at regional and federal levels by the three national trade union federations. The national federation of employers adopted a code of practice on anti-discrimination for its constituents. Prompted by the research outcome, both the regional and federal authorities adopted administrative and legal measures. The national Labour Inspectorate added discrimination criteria to its monitoring activity and included it in training of inspectors.

SITUATION TESTING

In order to more precisely measure actual discriminatory behaviour in labour markets, the ILO worked with Prof. Dr. Frank Bovenkerk beginning in the early 1990s to develop a methodology for measurement of discrimination.¹ This methodology prescribes in detail how to collect statistically significant data documenting whether or not migrant or minority workers are discriminated against when trying to find a job.

Since the mid-1990s, the ILO has coordinated and supervised research to determine the occurrence of discrimination in access to employment in Belgium, France, Germany, Italy, the Netherlands, Spain, Sweden and the United States. Similar *situation testing* utilizing the ILO methodology was conducted independently by researchers in Denmark and Switzerland.

As of mid-2007, expressions of interest have been manifested regarding consideration of situation testing in Finland, Norway, Portugal, and the United Kingdom. Officials of the European Fundamental Rights Agency (formerly the EU Monitoring Center on Racism and Xenophobia) have discussed with ILO the merits of the ILO methodology as a potential tool and common indicator for measuring progress by EU member States in reducing discrimination and promoting equality of treatment.

Practice Tests are carried out through pairs of persons posing as job-seekers whose characteristics are matched except for nationality/national origin. Practice tests are close to reality; they focus on actual behaviour --rather than on subjective statements-- of employers seeking to fill vacancies. Test outcomes cannot be influenced by socially desirable answers, as the employers tested are not aware of the experiment. Practice tests thus clearly have an advantage over attitude testing.

Tests generally compare legally resident migrants or “second generation” citizens of immigrant origin, who have experience in the host country labour market and who would be applying to the same job openings as national origin/ancestry workers. The nationality and gender profiles to be tested are determined in consultation with the research sponsor --usually a government agency--and the implementing national research partner.

Tests are usually carried out in three or more important urban areas in each country, in order to obtain data on different labour market areas in a country with substantial populations of immigrant or immigrant origin workers. The same or possibly different variables regarding origin and gender may be tested in each urban/city area.

METHODOLOGY

Pairs of *candidates*, comprising one *national* and one *immigrant* or *immigrant origin* applicant whose characteristics match except for their ethnic/national background, present themselves to prospective

1 F. Bovenkerk (1992).

employers in response to job openings. In this way, differential treatment between migrant/immigrant origin candidates and those of national background can be identified and statistically measured when it occurs.

Pairs of candidate testers are matched to present identical skills levels, educational attainment and employment experience. The tester ‘candidates’ are often university students or young professional actors, carefully selected to meet the testing behavioural and background protocols. The testers are provided training for their roles and coached to present similar behaviour and attitudes to eliminate all possible variables influencing employer consideration other than their names and physical appearance marking ethnic difference. Their testing activity is constantly guided and monitored by qualified project supervisors. All testers and project supervisors are supported throughout this process. Confidentiality is rigorously maintained of identities of the employers contacted and the tester candidates.

The ILO testing methodology requires that a minimum of 175 “valid and usable” tests of job offers are conducted in each labour market area and for each variable in order to arrive at statistically valid conclusions with respect to the occurrence of discrimination. This may mean that tests may be initiated with as many as 300 or more job vacancy announcements in a given labour market area.

The testing generally focuses on low and medium skilled jobs, in sectors and activities assumed or shown to be sought after by candidates of both national and immigrant backgrounds. Representative samples of vacancies in both industrial and service sectors are generally selected. The vacancies are identified from job offers at offices of labour exchanges, newspaper advertisements, and other forms of publicly announced demands for workers. Application procedures and requirements for high skilled jobs generally demand presentation of personalized legal credentials of education and qualifications that the current testing methodology cannot provide.

The testing procedure is comprised of the following steps:

- 1) **Voice inquiry/Submission of CV:** Testers call or submit a CV in response to an advertised job opportunity to inquire about the continuing availability of the position. Testing “pairs” are set up and trained to match their skills levels, educational attainment and employment experience levels. Coaching is provided to ensure that personal styles, such as level of assertiveness, are as identical as possible to eliminate all variables but that of patronyme signifying ethnic origin. The critical outcome event in Step 1 is an invitation to apply for the job.
- 2) **Written application:** Testers submit formal applications for the job. Careful preparations are required to ensure consistent response when companies call back for an interview. The critical event is the invitation to Step 3.
- 3) **Job interview:** Testers engage in face-to-face interaction with the prospective employer. It is essential that the pair of testers make similar first impressions, since research indicates that first impressions matter a great deal. Tester physical characteristics and even dress style are matched as much as possible to avoid any other variables than those that mark ethnic/national distinction. The critical event is the offer of employment.

There are four outcome options:

- Neither is offered a job
- The minority tester alone is offered a job
- The majority tester alone is offered a job
- Both are offered jobs. They may not necessarily be offered equal jobs, and such differences in treatment are also recorded.

The individual case is discontinued as soon as the potential employer declares a preference for one tester over the other. This could take place at any one of the three steps, but has most frequently occurred at Step 1 in all countries tested. In each step there is ample opportunity for the employer to discourage one member of the testing pair to advance over the other to the next step or to employment. Differences in treatment are recorded by the researchers, including in the content of telephone dialogues and conduct of interviews.

TESTING RESULTS

ILO testing has showed discrimination in access to employment to be a phenomenon of considerable importance in all countries covered by the research. Overall net-discrimination rates of up to 35 per cent were not uncommon, meaning that in at least one out of three application procedures migrants/minorities were discriminated against.

Comparing the job application experience between ‘majority’ and ‘minority’ testers has shown differential treatment in even more dramatic terms, terms also more easily understandable by public audiences. The minority candidates usually have to make three to five times more tries as majority candidates to obtain a positive response in the employment application process. In one local situation, the multiple was 17 times as shown below.

As a consequence of the rigorous research methodology, the discrimination rates uncovered by the project were assumed to be conservative estimates of what is happening in reality.

Research findings showed discrimination occurring in, broadly, three stages of the recruitment process. The first, and most common form of discrimination tended to occur at the first contact between migrant/minority applicant and employer. Blatant, direct discrimination at this stage meant that migrant/minority applicants were often not even able to present their credentials. Often the migrant/minority applicant was simply told that the vacancy was already filled, while the citizen-profile applicant would be invited for an interview. In other instances, the migrant candidate, distinguishable by his/her foreign-sounding name, was told straight away that foreigners were not wanted.

The second stage of discrimination occurred when both applicants were invited for an interview. At this stage, there were a considerable number of cases where the migrant/minority candidate was subjected to additional qualification requirements while the national candidate was not.

The third stage showed that, if the migrant/minority candidate was offered a job, the terms and conditions of employment tended to be inferior to those offered to the citizen-profile applicant. Above average discrimination rates were detected, particularly in privately owned small and medium sized enterprises in the services sector, and especially for jobs that involve direct contact with clients.

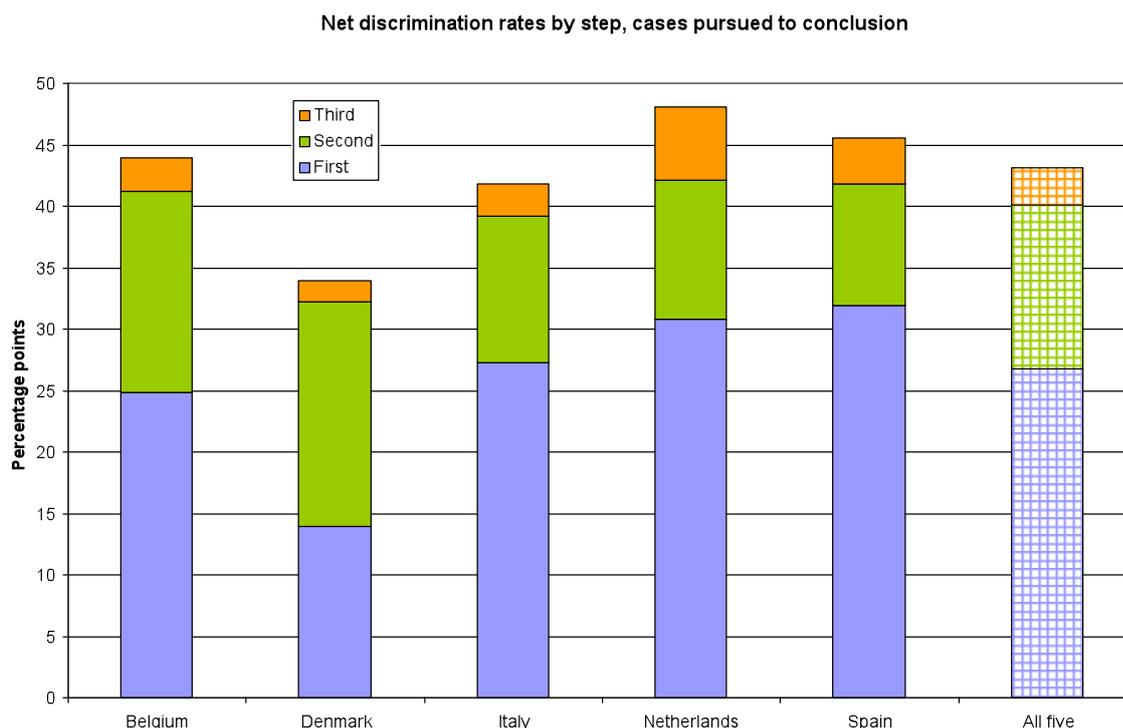
The following graphs provide an approximation of the results of several national practice testing studies. However, ILO does not consider the national testing study outcomes to be strictly comparable across different countries, given significant differences in employment market conditions, legislation, ethnic composition, immigration dynamics and other factors between different national situations.

Completed usable cases in five countries, males. ² (France and Sweden data not yet included)								
	Net discrimination by stage of the application process (percentage points)				Job applications required per job opportunity			
	First	Second	Third	Total	Majority	Minority	Multiple	Net
Belgium	25	16	3	44	1,6	5,3	3,3	3,7
Denmark ³	14	18	2	34	2,0	6,1	3,1	4,1
Italy	27	12	3	42	1,8	7,4	4,1	5,6

² *The German results are not reported because only the first two steps were carried out: the methodology deviated in important ways due to particular employment application requirements in Germany, and a large part of the discrimination would apparently have occurred in step 3 which was not carried out.*

³ *The work in Denmark was carried out according to the ILO methodology but not by the ILO.*

Netherlands	31	11	6	48	2,0	33,3	17,0	31,3
Spain	32	10	4	46	1,8	11,1	6,1	9,3
All five	27	13	3	43	1,8	7,4	4,2	5,6



SITUATION TESTING RESEARCH USING ILO METHODOLOGY

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