

**COMBATING EMPLOYMENT DISCRIMINATION IN EUROPE:
NATIONAL VARIATION AND THE DAWN OF 'GOOD PRACTICE'**

John Wrench

Centre for Diversity and Inclusion
NTNU Social Research
Norwegian University of Science and Technology
NO-7491 Trondheim
Norway

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Combating employment discrimination in Europe: national variation and the dawn of 'good practice'

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This paper starts with the evidence from recent European-wide reports that racial or ethnic discrimination in European labour markets is more common than is generally admitted. The paper goes on to examine critically examples of initiatives in various EU countries which are designed to counter discrimination and further the integration into employment of Europe's post-war migrant population and their descendants. To do this it draws upon the 1997 "European Compendium of Good Practice for the Prevention of Racism at the Workplace". Case studies are selected from this compendium to illustrate the kinds of initiatives against racism and discrimination in employment which have recently been introduced in both public and private sector organisations in various European countries. These examples show how the character and emphasis of anti-discrimination practices vary across EU member states. The paper then attempts some explanation for this variation, in terms of factors including the difference in the character and legal status of the predominant post-war migrant groups and their differential participation in the labour market, as well as historically different national conceptions of racism and citizenship, and responses to immigration and ethnic diversity.

In the 1990s there were a number of international initiatives which helped to put employment discrimination against migrant workers and ethnic minorities on the European agenda. For example, the ILO programme "Combating discrimination against (im)migrant workers and ethnic minorities in the world of work"¹, initiated a programme of 'situation testing' covering several countries of Western Europe ('Situation testing' is sometimes known as 'discrimination testing' or 'practice tests' - see Banton 1997). This method utilises two or more testers, one belonging to a majority group and the others to ethnic minority groups, all of whom apply for the same jobs, whether by letter, telephone or in person. The testers are matched for all the criteria which should be normally taken into account by an employer, such as age, qualifications, experience and schooling. If over repeated testing the applicant from the majority background is systematically preferred to the others, then this points to the operation of discrimination according to ethnic background (Bovenkerk 1992: 6-7). Within the ILO programme, the Netherlands carried out the first national study (Bovenkerk et al. 1995), with others following in Germany, Spain, Denmark and Belgium (see Goldberg et al. 1995; Colectivo IOE 1996, Hjarnø and Jensen 1996).² The initial overall findings for discrimination testing in the various countries were summed up thus:

1 The ILO initiative also included Canada and the United States, but in this paper, discussion is restricted to the European countries.

2 The UK was not included in this exercise because evidence for discrimination had already been established there using this method - see, for example, Hubbuck and Carter 1980, Esmail and Everington 1993, Simson and Stevenson 1994.

The programme's findings show discrimination in access to employment to be a phenomenon of considerable and significant importance. Overall net-discrimination rates of up to 35 per cent are not uncommon, meaning that in at least one out of three application procedures migrants are discriminated against. In interpreting these results, it should be kept in mind that, as a consequence of the rigorous research methodology, the discrimination rates uncovered by the project must be assumed to be conservative estimates of what is happening in reality. Thus, discrimination constitutes a serious impediment for the migrants' chances of finding employment.³

Further evidence on employment discrimination in Europe came from research commissioned by the European Foundation for the Improvement of Living and Working Conditions, Dublin, covering the 15 European Union member states plus Norway (Wrench 1996). From different EU countries came accounts of direct racial or ethnic discrimination, such as the refusal to employ people simply on the grounds of colour of skin or ethnic background, and indirect discrimination, such as restricting employment opportunities to the family of existing workers, or using questionable informal and subjective criteria in recruitment. From within the workplace came accounts of discrimination in access to promotion and training, and allocation of duties, as well as verbal harassment. The report also illustrated a widespread ignorance of the problems of racism and discrimination in employment on the part of European employers, trade unionists, labour inspectors, and so on.

Perhaps the most immediate implication of this evidence is that of the need to strengthen legal measures against discrimination. There have been several recent comparative analyses of the workings of national anti-discrimination law, and of enforcement agencies, in Europe in the 1990s (Forbes and Mead 1992; CEC 1993, MacEwen 1995; MacEwen 1997) highlighting the wide variation in the effectiveness of such laws between EU countries, and generally agreeing on the importance of strong legislation at both the national and EU level. In some cases there remains very little legal pressure on employers to avoid racial discrimination; in some others there is recently enacted legislation, the effects of which cannot yet be properly judged. In some European countries, legislation against employment discrimination does not cover the private sector. Even when strong law exists in theory, there can be problems in practice. The case of France is an example where a number of problems are experienced with the use of the criminal law against racism and discrimination. Cases of employment discrimination are seldom brought to court for lack of concrete evidence, and in practice employers are generally free to take on whoever they like (De Rudder et al. 1995). In France in 1993 there were just two convictions for racial discrimination in employment (Banton, forthcoming), and in Sweden, during the year following the introduction of the 1994 law against employment discrimination, not one case of alleged discrimination found its way to a work tribunal, even though the Discrimination Ombudsman had received 75 complaints from members of the public (Graham and Soininen 1998). In Britain, on the other hand, 2,324 cases under the Race Relations Act were received by Industrial Tribunals in 1994 (Banton,

³ ILO project Information Bulletin No.4, May 1997, p.2.

forthcoming). In the Netherlands a recent law commits companies with more than 35 employees to aim for the proportional representation of 'non-natives' in their workforces, and this puts pressure on them to formulate policies to achieve this. In theory, therefore, there is now more legal pressure in the Netherlands to institute such policies than in other EU member states. There is thus a great deal of variety between different EU countries on the degree of pressure to introduce policies for the prevention of racial discrimination and the promotion of equal treatment.

It is argued that an EU directive on racial discrimination would get member states into line on this (Dummet 1994, Mirza 1995). However, action at the EU level has been slow to come, largely because of political opposition from various national governments. Less controversial have been policies against racism and discrimination at an organisational level, which are 'voluntarily' introduced by private sector companies or public sector employers. One European initiative which attempts to stimulate this sort of activity is the "Joint Declaration on the Prevention of Racial Discrimination and Xenophobia and Promotion of Equal Treatment at the Workplace", agreed by the European 'social partners' in October 1995, at the Social Dialogue Summit in Florence. This sets out a range of means that can make a positive contribution towards preventing racial discrimination at the workplace, and encourages employers and trade unions to adopt such measures. Amongst other things, the Joint Declaration called for the compilation of a 'Compendium of Good Practice'.

The European Compendium of Good Practice

Following the Joint Declaration, national researchers in each EU country were asked to produce a report covering cases of good practice in employment regarding immigrants and ethnic minorities within their own country, using a common methodology. The European Compendium of Good Practice for the Prevention of Racism at the Workplace (Wrench 1997a) was compiled from these reports. It consists of 25 case-studies from the 15 countries of the European Union, encompassing private and public sector companies, trade unions, collective agreements, codes of conduct and national initiatives.

The single most common practice described amongst the 25 case studies in the Compendium was that of training. This training could be grouped under three main headings:

1. Training directed at the migrants/ethnic minorities themselves
2. Training directed at the majority to produce attitude change
3. Training directed at the majority to produce behavioural change

1. Training directed at the migrants/ethnic minorities themselves

Historically, in many countries training of the migrants themselves was the first type of activity adopted. Generally this was training for newcomers, teaching them the language, introducing them to important legal or cultural aspects of the new society, or showing them how to operate in the labour market. It was assumed that this would facilitate the 'integration' of immigrants into society, and is still the sort of training

given in many counties to refugees and other newcomers. In the Compendium there were also examples of training for an older and more established immigrant population, in two contexts: firstly, where restructuring of the economy has led to the closure of old industries and heavy unemployment amongst immigrant workers, who had been over-represented in these employment sectors (Martens and Sette 1997), and secondly, where restructuring within a firm has adversely affected the existing immigrant workforce by requiring from them new skills or language abilities which they do not possess (Gächter 1997).

However, although providing training for migrants is an important activity, the question has to be asked as to whether it is contributing to, in the words of the Joint Declaration, 'the prevention of racism and xenophobia'. Perhaps it might be argued that if these measures help to reduce the over-representation of immigrants and ethnic minorities amongst the unemployed, or promote their broader and better employment, then they are tackling the roots of racism by undermining the idea that visible minorities are second class citizens, naturally suited for second class jobs. This, however, is at best only *indirectly* confronting racism.

There are problems in over-emphasising the role of training of immigrants, or as seeing it as sufficient in itself. For one thing, training directed at immigrants carries with it the assumption that the problems they encounter are a result of their own deficiencies. Yet there is a great deal of evidence that well-educated migrants and ethnic minorities with no language problems at all suffer discrimination and exclusion from opportunities for which they are well qualified. It can therefore be argued that if you are aiming to counter racism, discrimination and xenophobia, then your training should logically be directed at those whose attitudes and actions cause the problem, i.e. members of the white majority population. There are several different examples of this in the Compendium, and these can be divided into those initiatives which aim to change attitudes, and those which attempt to change behaviour.

2. Training directed at the majority: attitude change

An example of an initiative to change majority attitudes is the "Living with Foreigners" campaign set up jointly by the German social partners, the DGB and the BDA (Brüggemann and Riehle 1997). This is targeted at around one million apprentices in German industry, using training packages and media materials aimed at countering attitudes of intolerance and xenophobia. The assumption behind this sort of campaign is that educational material, and greater contact with people from other cultures, can help to break down attitudes of racism and prejudice, and thereby reduce discrimination. Another example of the provision of educational material or information for the white national employees is the local authority in Århus, Denmark's second largest city. All employees were sent a newspaper "På lige fod" (On an equal footing) which presented success stories of ethnic minorities employed in the Council, the positive benefits of working with others from different cultures, and so on (Wrench 1997b).

The implicit assumption here is that the production of this sort of information will help to reduce racist attitudes and thereby reduce resistance to employing migrants. It is assumed that attitudes can be changed in this way, and that attitude change will lead to changes in behaviour and practices. However, this assumption may well be

naive. For one thing, racist attitudes and prejudices are unlikely to be changed simply by the provision of training and information. Secondly, it is quite possible for practices of racial discrimination to be carried out by someone who does not have racist attitudes. Therefore, it can be argued that attempts to produce changes in people's *behaviour* are more fruitful than trying to change peoples attitudes.

3. Training directed at the majority: behavioural change

A number of initiatives in the Compendium place a greater importance on changing individual behaviour than attempting to change attitudes. These initiatives can be divided into two sorts: those which can be categorised as 'multi-cultural' in their approach', or those which work from an 'anti-discrimination' perspective.

Examples of initiatives with a 'multicultural' emphasis are those which provide training for managers and supervisors in 'intercultural management', or training workers in 'intercultural cooperation' or how to work in multicultural teams. For example the Thyssen Stahl steel company in Germany provides training in 'leading multicultural teams', as well as providing Turkish courses for German workers wishing to learn the language either for job-related or personal reasons (Brüggemann and Riehle 1997). Similarly in the Netherlands the Dr Sarphatihuus nursing home introduced mandatory 'intercultural management' courses for middle and senior managers to help counter their ignorance about the implications of working with a multi-cultural staff (Abell 1997).

Again, although these initiatives are undoubtedly valuable, they are still only *indirectly* addressing racism and discrimination. A more direct approach calls for an 'anti-discrimination' rather than a 'multicultural' emphasis. An example of this kind of training would be that introduced in Belgium as a result of the Code of Conduct for temporary employment agencies, signed by employers and trade unions in the temporary employment agency sector (Martens and Sette 1997). A survey of agency staff had revealed that most received discriminatory requests from employers, ranging from requesting perfect bilingualism for manual occupations - regarded in the temporary staff sector as a kind of secret code for the exclusive selection of Belgian workers - to explicit requests not to be sent any foreigners. Both trade union and employers representatives admitted that the temporary employment sector is indeed beset with problems of racial discrimination. The training aimed to make staff aware of the problem of racial discrimination, and instructed them how to respond to employers who made discriminatory requests, and how to ensure that only functionally relevant requirements are taken into account when selecting temporary staff.

There were other examples in the Compendium of the anti-discrimination training of 'gatekeepers' and others whose activities could have a direct effect on the opportunities of ethnic minorities. Measures included training on fair recruitment and selection procedures, and how to comply with anti-discrimination legislation. Generally speaking, these initiatives work from the assumption that "measures to prevent racism and xenophobia and promote equal treatment at the workplace" are to be directed at members of the majority society, not at the migrants themselves, given that problems of racism, xenophobia and unequal treatment are the product of the

attitudes and practices of the majority, and the workings and structures of the majority institutions of society.

Positive action

Many of the initiatives listed in the Compendium are aimed at providing equal treatment by attempting to change attitudes and practices, and removing discriminatory barriers, so as to produce the 'level playing field'. However, there is also a strong argument that these are not enough, and that action is needed over and above the simple provision of equal rights and the removal of discrimination. A further range of measures is needed where the targets are the migrants themselves, and these fall under the heading of 'positive action' (CRE 1985). They are based on the assumption that 'equal treatment' is not going to be much use if migrants are starting from very different and disadvantaged positions, sometimes because of the operation of racism and xenophobia in the past. Positive action goes further than equal treatment. Whereas equal treatment would mean treating people who apply for jobs without discrimination, positive action means, for example, making an extra effort to encourage groups who might not normally apply. Therefore, positive action is in fact doing something extra for previously excluded minorities, something you are not doing for the national majority (see Blakemore and Drake 1996; Moore 1997).

Positive action still arouses negative reactions in some quarters. But in its weakest sense, positive action could simply mean devoting extra resources to language and other training for immigrants in order to better equip them for work. This type of initiative is probably the single most common amongst all the case studies in the Compendium, and seems to arouse the least controversy. Indeed, such measures might not even be called 'positive action' at all, but simply varying the distribution of resources according to need. Other measures which go further than "equal treatment" are those which accommodate the specific religious or cultural needs of minority groups within the organisation. Again, these are not uncommon amongst the case studies. Stronger forms of positive action might include special recruitment initiatives, such as translating job advertisements into ethnic minority languages, placing advertisements in the ethnic minority press, or using statements to encourage applicants from minorities. An increasingly used measure is that of "mentoring". This is intended to increase the retention of minorities once they have been recruited into the organisation. One problem with positive action measures is that they are regularly confused with "positive discrimination", and thereby arouse hostility (see Jewson et al. 1992). This may be due to the image gained from the US, where the term "affirmative action" was initially used in the same way as "positive action" is in the UK, but over the years the meaning shifted towards elements of 'preferential treatment' (see Glazer 1987).

Only a minority of case studies operated a whole package of equal opportunities measures, covering, for example, the range of suggested initiatives in the Florence 'Joint Declaration', as well as others, combined with some positive action. Examples of these in the Compendium included the case studies from the Netherlands and the UK, and these could be called 'organisational equal opportunity policies'.

Organisational equal opportunity policies

The first example is that of Virgin Our Price, whose 'High Street' stores sell a wide range of goods including music CDs and cassettes, videos, games, books, T-shirts, chart music and other such accessories (Virdee 1997). Management decided to carry out an employee profile audit of the workforce, and personal information forms, including a request to self-nominate their ethnic origin, were issued to all employees. The audit showed that although the proportion of ethnic minorities employed was broadly in line with the size of the ethnic minority population nationally (just over 5 per cent), ethnic minorities were under-represented in middle management and senior positions.

Virgin Our Price made an explicit commitment to redressing past disadvantage through the adoption of positive action measures. Recognising that certain groups within the community may be under-represented in the business as a whole or in particular parts of it, it made special efforts to ensure that opportunities are made known to those groups, and where appropriate that training is provided to enable members of those groups to compete on equal terms for the opportunities available. To ensure that interview panels operate according to the company equal opportunity policy, all individuals who sit on recruitment and selection panels receive anti-discriminatory training, and one personnel representative is present at all interviews. Virgin Our Price also introduced an anti-harassment policy. It states that a single serious incident of harassment can result in summary dismissal for gross misconduct.

The company states that its policy has a number of advantages, including:

- attracting the best from the pool of skills and talent which is becoming increasingly multi-racial and using people's potential to the full;
- ensuring that the company meets the needs of its current and potential customers effectively through a workforce that reflects the make up of the communities which it serves, and providing a competitive edge in reaching and attracting alternative new markets;
- avoiding incurring the direct costs of racial discrimination: financial, reduced employee moral and commitment, and cost to the image of the organisation resulting from adverse publicity (Virdee 1997).

A second example of an organisational equal opportunity policy is that of the North Holland Department of the Directorate-General for Public Works and Water Management, part of the Ministry of Transport, Public Works and Water Management, which is the third largest ministry in the Netherlands. It is responsible for flood defences and water management, traffic, transport and communications (Abell 1997).

The head of personnel believed that an organisation like the North Holland Department could not "stand apart from society". (The Department is located within a highly multi-ethnic part of the Netherlands.) At the end of 1991, the Ministry of the Interior called upon all parties to add extra wording to advertisements recruiting personnel from outside to the effect that, all other things being equal, priority would

be given to ethnic minorities, as well as to women and disabled people. However, applications to the organisation from ethnic minorities were low, and a survey revealed that disillusionment was one of the main reasons for the low response to advertisements. The study also showed that recruitment of ethnic minorities required a less conventional approach, such as the use of informal networks. Contacts were then initiated with migrant organisations and other relevant bodies to stimulate applications. Also, agreements were concluded with temporary employment agencies that requests for temporary staff would be met in the first instance by candidates from one of the ethnic minorities.

In addition to diversifying the recruitment procedures, the Department held preliminary interviews with applicants of minority ethnic origin to ensure that they met the requirements of the job. During the preliminary interview information was given about the organisation and the procedure, and applicants were advised on how to improve their letters of application and CVs. Preliminary interviews created a relationship of trust, so that contact was maintained after the initial application and feedback was obtained on the progress of the procedure. During selection, personnel officers were careful to see that the correct procedures were followed in the case of applicants of minority ethnic origin and that no improper arguments were used to reject them. Also, line managers underwent training in selection skills to avoid bias in selection interviews, and there were information campaigns and meetings with Dutch non-immigrant staff to get across the message of the initiative, and to reduce any potential hostility to it. By 1 January 1996 the percentage of employees of minority ethnic origin was seven per cent, two per cent higher than the recommended target set by the national Civil Service plan. It was interesting that this policy was introduced through the commitment of senior staff using arguments of a social and moral nature. Unlike the previous example, this organisation was not trying to increase its appeal to a multi-cultural clientele.

These organisations in the UK and the Netherlands had policies of a greater variety and strength than the case studies from other countries⁴. Between them they operated a whole range of different practices, including special advertisements, allowances for cultural difference, positive action training for immigrants, training for staff on how to recruit and select without discrimination, and procedures for sanctioning harassment, with progress reviewed and monitored by statistics, and targets set relating to the long term proportional representation of minorities. The accurate monitoring of their workforces over time allowed these organisations to review their progress and make appropriate policy changes, and indeed, the monitoring was able to demonstrate that they had progressed significantly towards a greater representation of ethnic minorities amongst their employees.

However, in some EU countries the sorts of policies described above are quite unknown. This might be because of differences in national ideologies or in national circumstances.

⁴ These two countries plus Sweden were described as 'frontrunners' in the development of anti-discrimination legislation in a 1991 ILO report (Zegers de Beijl 1991: 2)

Differences in national ideologies

There are clearly great differences, historically and culturally, in national responses to immigration and ethnic diversity. Castles (1995) provides a categorisation of such responses, which includes:

- *Differential exclusion*: immigrants are seen as guestworkers without full social and political rights (e.g. Germany, Austria, Switzerland, Belgium).
- *Assimilation*: immigrants are awarded full rights but are expected to become like everyone else (e.g. France, the UK in the 1960s).
- *Pluralism/Multi-culturalism*: immigrants have full rights but maintain some cultural differences (e.g. Canada, Australia, Sweden, the UK more recently).

These are 'ideal' types, and in reality there have been some tensions within them. The *differential exclusion* model was based on the desire to prevent permanent settlement, and has proved hard to maintain because it leads to social tension and contradicts the democratic principle of including all members of civil society in the nation-state. The case of Germany fits this model, although there has been a shift to assimilation policies in some areas, and some multi-cultural policies in education. In France, probably the best example of the *assimilation* model with its republican tradition of "equal treatment for all", there has been a move to some elements of the pluralist model, and this has led to some difficulties because of contradictions between explicit goals and actual policies. In the UK in the 1950s and 1960s there was a sort of "laissez-faire" assimilation which moved to *pluralist* and *multicultural* models in the 1970s. There is now a mixture of assimilationist and pluralist policies, without a clear overall objective (Castles 1995).

These contrasting national approaches provide very different contexts in which the case studies are located. Often, the ideologies relating to these 'ideal types' remain in official discourse, and are directly reflected in how policies on the treatment of migrants and ethnic minorities are expressed. Furthermore, different conceptions of racism are emphasised in different European countries, and these have corresponding implications for the character of measures to counter racism and discrimination. We can illustrate this by considering the cases of the United Kingdom and France. For example, it is suggested by Michael Banton that policies in France start with the assumption that the causes of racism lie within the realm of ideas, and that the first priority is therefore to penalise incitement to racial hatred. Official discourses on racism are concerned with phenomena such as racial attacks, attack on mosques or Jewish cemeteries, or the incitement to racial hatred. Correspondingly, the policing of the press and publications regarding racism is much stricter than it is in Britain. In Britain, official policy makes no similar usage of the concept of racism but emphasises action against discriminatory behaviour in a rather pragmatic approach (Banton, forthcoming). There are also differences in the degree to which policies against racism and discrimination have as part of their approach a practical recognition of ethnic categories. The French idea of its national community does not sit well with the recognition of ethnic or immigrant minorities within it.⁵ According

to Michael Banton, "The French see their country as a political community which could be undermined were they to recognise differences based on ethnic origin in the relations between citizen and the State" (Banton, forthcoming). Thus in France the emphasis is on broader "equal rights" policies as a means of avoiding discrimination for all citizens and workers, and initiatives to encourage the recruitment of migrants have been phrased not in terms of 'anti-discrimination' or 'anti-racism' policies for migrants, but as egalitarian approaches guided by a universalistic ideology (De Rudder et al. 1995). To talk of measures in 'Anglo-Saxon' equal opportunities terms runs counter to established philosophies of universalistic treatment, with a resistance to dividing up the targets of policies by ethnic background. Therefore, in France, practices which benefit ethnic minorities are more likely to do so indirectly, without being designed in ethnically-specific forms. The British, on the other hand, have a much weaker and more complicated conception of citizenship and the national community, which has not been threatened by the recognition of ethnic categories or ideas of multiculturalism. Discussion on the forms that 'multi-culturalism' might take are a regular part of public debate in some sectors, and equal opportunities policies often operate in ways which take practical account of categories of ethnic difference (Jenkins and Solomos 1987). There is also a difference in the readiness to record and use data according to ethnic minority background. In the UK a question on ethnic background forms part of the official Census, and ethnic monitoring within organisations is often used to evaluate the progress of policies, whereas in France the recording of 'racial' or ethnic origin in official or private registration is legally proscribed.

Therefore, an important question is whether the sorts of policies discussed earlier - equal opportunity policies at an organisational level, positive action, celebrating diversity - are only compatible with the 'pluralist' or 'multi-cultural' approach. In the light of this question, it is interesting to consider the French case study.

The French case

The French case study in the Compendium is of a very different character to the others. This case covers the staff recruitment and training policy of the Continent hypermarket in a large shopping complex recently opened in an urban area in Marseilles (Quartiers-Nord) suffering from many social problems: unemployment and insecure employment, low incomes, a high proportion of people on benefit, a high percentage of young people without any qualifications or training, and so on (De Rudder et al. 1997). There is a high percentage of foreigners and French citizens of foreign origin in this area. However, acknowledging ethnic origin in the context of social policy contradicts the predominant "Republican model" in France, and so in this case this is side-stepped by applying measures based on a *territorial* definition of social problems.

A policy of "local preference for recruitment" in the shopping complex was initiated after vociferous lobbying (and even occasional acts of violence) during the construction phase by local people, who had felt that they were going to receive no benefit from the new shopping complex. A "Charte Emploi" [Employment Charter]

⁵ For a recent discussion of how German conceptions of citizenship and national ethnic community similarly discourage official recognition of immigrants as distinct ethnic minority groups, see Piper 1998.

was drawn up, in which all retailers wanting to open outlets at the centre were asked to sign, and under which they undertook to give priority for jobs to people living in districts close to the shopping centre (“provided they have the appropriate skills and abilities”). A training programme for Continent managers was instituted, entitled “Sensibilisation à la problématique des Quartiers-Nord de Marseille” [Raising awareness of the problems of Marseilles' Quartiers-Nord]. The idea was to make managerial staff familiar with the hypermarket's economic, social and cultural context, and also with its future employees. An agreement was made with a local agency to select particularly disadvantaged people from the Quartiers-Nord, provide them with initial training to improve their chances of being employed at Continent. The agreed selection criteria for these people were that the person must otherwise have “little hope of getting a job”, and that priority should be given to those persons resident in one of the four public housing estates closest to the shopping centre.

Ninety people followed an “initial skills/employability” training programme, and individual “mentoring” of trainees was also provided. Altogether, Continent took on 58 of these 90 people “blind”, i.e. without having to undergo any further selection tests, before the store opened; they were employed under permanent contracts, albeit only part-time, after receiving a further two to three months' training from the enterprise. An agreement was made with the Agence Locale pour l'Emploi to make provision for the establishment of a “one-stop-shop” for recruitment, and this was followed by a local public information campaign to announce the availability of the jobs. At the end of this process, more than 450 people, including 220 cashiers, were recruited and began the training provided by Continent in August and September 1996. When the store opened, a total of 489 new staff had been hired, and 95 per cent of locally recruited employees were, by February 1997, covered by permanent contracts of employment.

Thus, in this French case there was something very similar to what the British or Dutch would call 'positive action' - a policy targeted at an excluded group. Training was directed at local 'disadvantaged' people to improve their chances of employment at the hypermarket, and when this was combined with the policy to give priority for jobs to people living in the districts close to the shopping centre - provided that they had 'appropriate skills and abilities' - this formed a strong and effective 'positive action' policy which borders on positive discrimination. This was less controversial than it might have been because it was not openly framed as positive action for ethnic minorities, but for 'local people'. Supporters of this approach might argue that if this policy produced benefits for a previously excluded group, it was of no importance that the policy was not 'ethnically specific'. Opponents might argue that the 'hiding' of the ethnic factor in such policies is disingenuous and unsatisfactory. Not specifying 'race' or ethnicity allows in theory for the repetition of such a policy in an area where a new enterprise is located within a population of the white majority. Restricting recruitment to a primarily white catchment area has long been seen as a way of indirectly but intentionally discriminating against ethnic minorities (Lee and Wrench 1983).

Differences in national circumstances

All the examples in the Compendium of equal opportunities initiatives in general, and anti-discrimination measures in particular, are found in countries of the north of

Europe. One reason for this lies in those differences in the legal status of migrants between different EU countries.

The working population of the EU can be divided into five main categories in terms of legal status (Wrench 1996: 3)

1. Citizens living and working within their own country of citizenship.
2. Citizens of an EU Member State who work in another country within the Union (EU denizens).
3. Third country nationals who have full rights to residency and work in a Member State (non-EU denizens).
4. Third country nationals who have leave to stay on the basis of a revocable work permit for a fixed period of time.
5. Undocumented or 'illegal' workers.

The above five categories reflect formal status, and a continuum of rights ranging from full rights and privileges of citizenship in group 1 to virtually no rights in group 5. It is clear that the problem of discrimination in the labour market of countries in the EU differs according to which categories most of its migrant and minority ethnic workers fall in to. This will have corresponding implications for policies and practices on discrimination and equality.

In countries of Northern Europe, migrants and ethnic minorities are more likely to be skewed towards the top groups of the five legal categories of worker. Here, migrants are longer established and issues of the 'second generation' are important, with concern over the unjustified exclusion of young people of migrant descent from employment opportunities by informal discrimination on 'racial' or ethnic grounds, and their over-representation in unemployment. In the UK, for example, most migrants and their descendants are found in group 1; the legal status of migrant workers is generally not a problem, and a major part of equal opportunities activity concerns tackling the informal discrimination which in practice reduces the opportunities of minority ethnic workers, either at the workplace or within a trade union. In other countries of Northern Europe, a higher proportion of workers fall into group 3, suffering not only informal racial discrimination but also formal legal discrimination. For example, nationals of non-EU countries, even when legally resident and lawfully employed within an EU member state, are excluded from a whole range of jobs, and may be entitled to lower levels of unemployment benefit, or even inferior rights to representation on works councils. In this context, the first stages of any initiatives are more likely to concern themselves with the sorts of exclusion related to naturalisation and citizenship issues. This has implications for the overtones of the concept of discrimination itself. For example, in the UK the use of a broad definition of 'discrimination' allows for measures which tackle indirect, institutional or unintentional discrimination, whereas in Germany, avoiding discrimination is more likely to be seen more narrowly as working to ensure equal employment rights, and paying equal wages for equal work, through formal agreements between the 'social partners'

In countries of southern Europe immigrants are likely to be over-represented towards the bottom of the five groups. Groups 4 and 5 workers are actively preferred and recruited because they are cheaper, more vulnerable, and more pliable - they are less able to resist over-exploitation in terms of work intensity or working hours, in conditions which indigenous workers would not tolerate. "Anti-discrimination" activities in these circumstances are initially more likely to emphasise measures to empower such workers and reduce their vulnerability to exploitation, with, for example, initiatives to unionise, regularise and train them.

Thus a practice within one context might carry different overtones to the same practice in another. For example, in a sector within a southern European country where migrants are severely exploited in illegal work because they don't have the power to resist or to seek alternative employment, then providing language training for them in the national language might be seen to be part of 'anti-discrimination' activity because it empowers them and enables them to resist such discrimination. In a country of Northern Europe where migrants have more legal rights and are longer established, including a 'second generation', the provision of language training is less likely to be seen as countering discrimination, and might even be interpreted as an 'alibi' for the absence of stronger measures.

In a country of northern Europe where most immigrants might have full citizenship rights, a knowledge of the language from the colonial links, and are relatively long established in the country, then equal opportunities policies and tackling 'informal' discrimination directed at the second generation are logical priorities. However, such instruments are less relevant for countries of southern Europe where a newer migrant population is concentrated more towards the bottom groups - many are on restricted work permits, many are 'illegal', and most are relatively recent. To talk about 'ethnic monitoring' or 'targets' in an environment where large numbers of undocumented workers suffer great exploitation would be inappropriate. Here, simply implementing 'equal treatment' would bring considerable improvements.

This difference in emphasis was borne out in the Compendium case studies from southern Europe, where many of the initiatives were directed to countering the inequality which is rooted outside the organisation, in broader society. Hence in Greece and Portugal the case studies consisted of initiatives against the illegal exploitation of immigrants (Fakiolas 1997; Palma Carlos and Silva 1997). In an Italian case study employers directed some of their measures outside the organisation with interventions to counter discrimination in the housing market on behalf of their employees (Carrera et al. 1997), whilst in Spain the unions became concerned with broader welfare issues outside the workplace (Cachón 1997). Anti-discrimination initiatives in the forms found in, for example, the UK and the Netherlands, are less appropriate for these circumstances. Having said this, there was evidence of a growing realisation that in the future, employers and unions will need to take on board some of the ideas current further north in Europe. At the moment, immigrants in the southern countries of Europe are not generally in competition with native workers for their jobs. However, a whole new set of problems will arise when second generation immigrants with better academic qualifications and aspiring to more skilled work start to compete with the majority population in the 'normal' labour market.

Conclusion

The Joint Declaration on the Prevention of Racial Discrimination and Xenophobia and Promotion of Equal Treatment at the Workplace, signed in 1995 by EU workers' and employers' organisations, has had an educational impact and has helped to put the issue of racism and discrimination at work onto national agendas, in some countries for the first time. The 1997 European Year Against Racism provided a further stimulus to awareness on these issues. Nevertheless, it is clear that specific initiatives and measures by employers to counter racism, discrimination and the exclusion of migrants and their descendants are still not accorded the legitimacy they deserve in member states of the EU. The European Compendium gives some examples of positive practices, demonstrating the sorts of measures that might be adopted by others. However, when these are set in a broader EU context they remain untypical.

One of the problems in furthering action against discrimination across the EU is the differing conceptions of, and assumptions about, racism and discrimination which exist in different European countries. In many countries people are uncomfortable with the usage of the term racism, particularly those whose histories give them most cause to remember the suffering caused by the doctrines of nazism. In Germany, for example, a reluctance to use the term racism in regard to events of everyday life is understood to be a reflection of the recent historical experience of this extreme form of racism, but is also interpreted by some scholars as a way of playing down the seriousness of recent events, such as the arson attacks on refugee hostels (Piper 1998).

In many countries, the term 'racism' is often seen to cover only pathological forms of racial hatred and extremist behaviour. This view is associated with the assumption that discrimination must be a product of racist attitudes. Therefore, the fact that such attitudes are by definition held only by an extremist minority in a society leads to the assumption that discrimination must be equally untypical in occurrence. This particular conventional wisdom underlies one commonly-heard rationalisation for inaction, frequently encountered at European meetings, namely that within a particular member state the problem of racism and discrimination in employment is 'abnormal' and not widespread enough to justify the introduction of special measures. There is a common attitude of 'no problem here', an attitude which is, however, expressed *uncommonly*, each manifestation being culturally and historically specific to each member state. Examples of such national arguments which have been expressed in recent years by employers' representatives, trade unionists, civil servants and officials are as follows:

- In Spain there is no racism towards migrants because Spain has traditionally been a country of *emigration*, and therefore its population understands well the problems faced by immigrants.
- Racism is not a normal part of Italian culture. This is apparent for two reasons: firstly, because Italian fascism, unlike German fascism, was never anti-Semitic, and secondly, because Italy had the largest communist party in Europe, reflecting a culture of international brotherhood and solidarity.

- In Germany racism is no longer a problem. Germany had been the most institutionally racist state in Europe under the Nazis, and therefore, racism was removed when the Nazi state was abolished.
- Racism is absent from French culture because since the 1789 revolution and the institutionalisation of 'liberty, equality and fraternity' into French society, France is the only European country which exhibits the true republican spirit of universalism.
- Racism is not a part of Swedish society because Sweden, unlike the major migrant-receiving countries of Europe, has never been a colonial power ruling over non-white peoples.
- In the Netherlands, racism is not a normal part of the national character because, in comparison to other European colonial powers, the Dutch operated a more benevolent form of colonialism. This is illustrated amongst other things by a high rate of inter-marriage between Dutch and ex-colonial peoples.
- Attitudes of racism are alien to the Portuguese character because Portugal was the first country to open up new lands with its voyages of discovery to Africa and India, thus exposing the Portuguese people to non-Europeans earlier than other countries, and laying the foundations of universalism and tolerance in the national character.

Participants in international meetings have even heard the observation that the absence of legislation against racial discrimination in a particular country is in itself a convincing demonstration that the problem does not exist in that country.⁶

The research evidence quoted at the beginning of this paper counters the assertion that there is 'no problem here', as well as showing that routine normal and institutional discrimination is not simply the result of extremists and right-wing racists but is found quite commonly within the organisations of society. There is clearly a need to get racism and discrimination further on the European agenda, with specific measures to tackle them, even if the exact character of these measures will vary between different national contexts.

The European Compendium of Good Practice was not in any way a survey, simply a collection of case studies which act as examples of some of the practices at work. Therefore, it cannot be taken as providing an overview of the state of action on this issue across the EU. Nevertheless, it does give us some indication of the character of this action. It was significant that sometimes national researchers had to look rather hard to find their case studies of good practice for the Compendium. Some of the cases which feature in the Compendium reveal the continuance of the assumption that measures to promote equal treatment in the labour market are to be directed at the

⁶ The above arguments have all been heard by the author expressed at international conferences and meetings over recent years, apart from the Italian case, which was taken from documentary sources.

migrants themselves, and that employers and other interested parties seem to be far more comfortable with this approach. For example, in Belgium, recent attempts to move the emphasis of anti-discrimination training away from training directed at migrants to training aimed at representatives of the societal majority met with significant resistance, countering some of the potential effects of anti-discrimination training measures and leading to some initiatives being discontinued (Castelain-Kinet et al. 1998).⁷ Furthermore, those initiatives which are directed at the white majority frequently work from the assumption that racism and discrimination can be addressed simply by 'attitude change' measures such as information provision, or a modicum of 'inter-cultural contact'. Stronger anti-discrimination or anti-harassment measures which have implications for organisational practice are relatively rare. One problem is that, on the whole, employers and their organisations remain ideologically unsympathetic to stronger measures to counter discrimination and to further equal opportunities. Receptivity to them seems to be greater in the public sector, and in the retail part of the private sector where a pay-off in terms of broader customer appeal is recognised. The business case for such measures remains unrecognised in some member states. Yet the business case itself can be overstated (Rubenstein 1987), and will not alone provide sufficient incentive for change. Where a 'business pay-off' is not immediately obvious, extra pressure will need to be applied via the legal framework, and where legal arrangements at a national level are inadequate, it is likely that pressure from the European level will improve this. Even in Sweden, which has often been held up as a model for others in the rights and protection it grants to immigrants, the impetus to introduce legislation against ethnic discrimination in employment originated not from within the country itself but from the external pressure of international organisations and agreements (Graham and Soininen 1998: 536). In the 1997 Treaty of Amsterdam there was included for the first time an article which condemns discrimination based on criteria which include racial or ethnic origin. Ratification of this treaty will empower the European Commission to propose specific action, such as a directive to cover racial and ethnic discrimination at the workplace in all EU member states.

7 ILO Project Information Bulletin No. 5, August 1998, p.5

References

- Abell, Paul (1997) *Case Studies of Good Practice for the Prevention of Racial Discrimination and Xenophobia and the Promotion of Equal Treatment at the Workplace: The Netherlands*, Dublin: European Foundation for the Improvement of Living and Working Conditions, WP/97/44/EN.
- Banton, Michael (1997) "The ethics of practice-testing" *New Community* Vol. 23 (3) p.413-420
- Banton, Michael (forthcoming) "National variations in conceptions of racism" *Migration* Vol 36/37/38
- Blakemore, Ken and Drake, Robert (1996) *Understanding Equal Opportunity Policies*, London: Prentice Hall/Harvester Wheatsheaf.
- Bovenkerk, Frank (1992) *Testing Discrimination in Natural Experiments: A Manual for International Comparative Research on Discrimination on the Grounds of 'Race' and Ethnic Origin*, Geneva, International Labour Office.
- Bovenkerk, Frank, Gras, Mitzi, and Ramsøedh, D. (1995) *Discrimination against Migrant Workers and Ethnic Minorities in Access to Employment in the Netherlands*, Geneva: International Labour Office.
- Brüggemann, Beate and Riehle, Rainer (1997) *Case Studies of Good Practice for the Prevention of Racial Discrimination and Xenophobia and the Promotion of Equal Treatment at the Workplace: Germany*, Dublin: European Foundation for the Improvement of Living and Working Conditions, WP/97/39/EN
- Cachón, Lorenzo (1997) *Case Studies of Good Practice for the Prevention of Racial Discrimination and Xenophobia and the Promotion of Equal Treatment at the Workplace: Spain*, Dublin: European Foundation for the Improvement of Living and Working Conditions, WP/97/46/EN
- Carrera, Francesca, Ciafaloni, Francesco and Mirabile, Maria Luisa (1997) *Case Studies of Good Practice for the Prevention of Racial Discrimination and Xenophobia and the Promotion of Equal Treatment at the Workplace: Italy*, Dublin: European Foundation for the Improvement of Living and Working Conditions, WP/97/42/EN
- Castelain-Kinet, F., Bouquin, S., Delagrangé, H. and Denutte, T. (1998) *Pratiques de formations antidiscriminatoires en Belgique* Geneva: International Labour Office
- Castles, Stephen (1995) "How nation-states respond to immigration and ethnic diversity" *New Community* Vol. 21 (3) p. 293-308
- Colectivo IOE: Miguel Angel de Prada, Walter Actis, Carlos Pereda and R. Pérez Molina (1996) *Labour market discrimination against migrant workers in Spain*, Geneva: International Labour Office
- CEC (1993) *Legal Instruments to Combat Racism and Xenophobia*, Luxembourg: Commission of the European Communities, Office for Official Publications of the European Communities

- CRE (1985) *Positive Action and Equal Opportunity in Employment*, London: Commission for Racial Equality
- De Rudder, Véronique, Tripiet, Maryse, and Vourc'h, Francois (1995) *Prevention of Racism at the Workplace in France*, Dublin: European Foundation for the Improvement of Living and Working Conditions
- De Rudder, Véronique, Poiret, Christian and Vourc'h, Francois (1997) *Case Studies of Good Practice for the Prevention of Racial Discrimination and Xenophobia and the Promotion of Equal Treatment at the Workplace: France*, Dublin: European Foundation for the Improvement of Living and Working Conditions, WP/97/38/EN
- Dummett, Ann (1994) *Citizens, Minorities and Foreigners: A guide to the EC*, London: Commission for Racial Equality
- Esmail, A. and Everington, S. (1993) "Racial discrimination against doctors from ethnic minorities" *British Medical Journal* 306 March
- Fakiolas, Rossetos (1997) *Case Studies of Good Practice for the Prevention of Racial Discrimination and Xenophobia and the Promotion of Equal Treatment at the Workplace: Greece*, Dublin: European Foundation for the Improvement of Living and Working Conditions, WP/97/40/EN
- Forbes, Ian and Mead, Geoffrey (1992) *Measure for Measure*, London: Employment Department Research Series No. 1
- Gächter, August (1997) *Case Studies of Good Practice for the Prevention of Racial Discrimination and Xenophobia and the Promotion of Equal Treatment at the Workplace: Austria*, Dublin: European Foundation for the Improvement of Living and Working Conditions, WP/97/34/EN
- Glazer, Nathan (1987) *Affirmative Discrimination: Ethnic Inequality and Public Policy*, Cambridge, Mass.: Harvard University Press
- Goldberg, Andreas, Mourinho, Dora, and Kulke, Ursula (1995) *Labour market discrimination against foreign workers in Germany*, Geneva: International Labour Office.
- Graham, Mark and Soininen, Maritta (1998) "A model for immigrants? The Swedish corporate model and the prevention of ethnic discrimination" *Journal of Ethnic and Migration Studies* Vol. 24 (3) p. 523-540.
- Hjarnø, Jan and Jensen, Torben (1997) "Diskrimineringen af unge med invandrerbaggrund ved jobsøgning", Esbjerg: *Migration papers No. 21*, South Jutland University Press
- Hubbuck, Jim and Carter, Simon (1980) *Half a Chance? A Report on Job Discrimination against Young Blacks in Nottingham*, London: Commission for Racial Equality
- Jenkins, Richard and Solomos; John (1987) *Racism and Equal Opportunity Policies in the 1980s*, Cambridge: Cambridge University Press
- Jewson, Nick, Mason, David, Lambkin, C. and Taylor, F. (1992) *Ethnic Monitoring Policy and Practice: A Study of Employers' Experiences*, London: Department of Employment Research Paper No.89

- Lee, Gloria and Wrench, John (1983) *Skill Seekers - Black Youth, Apprenticeships and Disadvantage*, Leicester: National Youth Bureau.
- MacEwen, Martin (1995) *Tackling Racism in Europe*, Oxford: Berg
- MacEwen, Martin (ed) (1997) *Anti-Discrimination Law Enforcement: A Comparative Perspective*, Aldershot: Avebury
- Martens, Albert and Sette, Katia (1997) *Case Studies of Good Practice for the Prevention of Racial Discrimination and Xenophobia and the Promotion of Equal Treatment at the Workplace: Belgium*, Dublin: European Foundation for the Improvement of Living and Working Conditions, WP/97/35/EN
- Mirza, Qudsia (1995) *Race Relations in the Workplace*, London: The Institute of Employment Rights
- Moore, Robert (1997) *Positive Action in Action*, Aldershot: Ashgate
- Palma Carlos, Maria Leonor and Silva, Carlos Dias da (1997) *Case Studies of Good Practice for the Prevention of Racial Discrimination and Xenophobia and the Promotion of Equal Treatment at the Workplace: Portugal*, Dublin: European Foundation for the Improvement of Living and Working Conditions, WP/97/45/EN
- Piper, Nicola (1998) *Racism, Nationalism and Citizenship: Ethnic minorities in Britain and Germany*, Aldershot: Ashgate.
- Rubenstein, Michael (1987) "Modern myths and misconceptions: 1 'Equal opportunities makes good business sense'" *Equal Opportunities Review* No. 16, November-December p.48
- Simpson, Alan and Stevenson, John (1994) *Half a Chance, Still?*, Nottingham: Nottingham and District Racial Equality Council
- Virdee, Satnam (1997) *Case Studies of Good Practice for the Prevention of Racial Discrimination and Xenophobia and the Promotion of Equal Treatment at the Workplace: The UK*, Dublin: European Foundation for the Improvement of Living and Working Conditions, WP/97/48/EN
- Wrench, John (1996) *Preventing Racism at the Workplace: A report on 16 European countries*, Luxembourg: Office for Official Publications of the European Communities
- Wrench, John (1997a) *European Compendium of Good Practice for the Prevention of Racism at the Workplace*, Luxembourg: Office for Official Publications of the European Communities
- Wrench, John (1997b) *Case Studies of Good Practice for the Prevention of Racial Discrimination and Xenophobia and the Promotion of Equal Treatment at the Workplace: Denmark*, Dublin: European Foundation for the Improvement of Living and Working Conditions, WP/97/36/EN
- Zegers de Beijl, Roger (1991) *Although equal before the law... The scope of anti-discrimination legislation and its effects on labour market discrimination against migrant workers in the United Kingdom, the Netherlands and Sweden*. International Labour Office, Geneva