

The Benefits of Positive Action

Thematic Discussion Paper

On behalf of the European Union Agency for
Fundamental Rights (FRA)

By the International Centre for Migration
Policy Development (ICMPD) -
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The European Union Agency for Fundamental Rights (FRA) has commissioned a series of policy focused papers to engage in thematic discussions on areas related to its multi-annual framework. The aim of these papers is to support, encourage and contribute to the debate on issues of relevance to the European Union institutions, its Member States and the Agency's stakeholders.

The first paper commissioned aims to contribute to the ongoing policy debate on positive action and its benefits. The paper was produced in response to discussion and debates among the Agency's government liaison officers and within the European Parliament. In addition, the Agency wished to support, encourage and contribute to the European Commission's ongoing work in this area.

The paper was drafted for the Agency by the International Centre for Migration Policy Development (ICMPD) who retain the right to be known as authors of the report.

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Executive Summary

- [1.] Five strategies have been identified that define positive action in employment and show how they have been combined in different countries and under different legal systems. The five strategies include focusing recruitment on certain areas or housing estates, on the unemployed, a selection of educational institutions etc.; making membership of a particular or any minority group an asset or a requirement for contracting, hiring and/or advancement; making specific skills connected with membership of minority groups, such as language, tradition etc., an asset or a requirement for contracting, hiring and/or advancement; outreach activities using language(s) and media easily accessible for minorities to spread information about business, employment and advancement opportunities; and support for job applicants to improve their chances of performing well in a standard recruitment process. None of these five strategies contravene market processes. They merely enhance the chances of parts of the population to perform well in the market, if they have not done so in the past.
- [2.] Positive action strategies have been applied in a range of EU member states and industries. In manufacturing, among many others, Ford of Britain mended its image and Ford Europe improved its practices and results by amending its management hiring practices to include outreach to minority graduates by focusing on an enlarged set of colleges and by supporting them in gaining experience. In food retailing there are examples from France, Britain and elsewhere to show how reaching out to minorities and supporting them to meet the conditions for employment can pay dividends, and this also goes for banks. Various police forces in Europe have begun to venture into targeting minorities for hiring in order to improve their ability to understand, prevent, and fight crime and in order to contribute to good relations within the community. Known examples include Amsterdam, West Yorkshire, London, others in Britain, Bremen and others in Germany, and Vienna.
- [3.] From all the known cases it is evident that positive action is never taken by an enterprise or other organisation on its own. There are no off-the-shelf solutions. Tailoring positive action to local circumstances and the demands of the moment takes a good deal of knowledge of the precise situation of minority groups and the nature of their disadvantage, and each strategy requires know-how. Therefore companies have chosen to co-operate with

trade unions, foundations, training providers and others or they were partners in schemes devised by social partners, public authorities, NGOs and so on, initially funded in part or in full by public authorities, not least the European Union. The key to effective positive action lies in sustained communication and co-operation both within the organisation and with the community surrounding it. Therefore, as shown by examples of targeting and supporting Roma for employment in Spain and minorities more broadly in Denmark, the Netherlands and Belgium, positive action initiatives do not need to be employer-driven in order to be successful. They can and do originate from public and private intermediaries.

- [4.] Most enterprises and other organisations are small or medium sized (SMEs). Individually they do not have the capacity to engage in positive action, nor does the community have the capacity to deal with a large number of enterprises and other organisations individually. In order to bring positive action to them and to the community there is a need for cooperation between them that can be provided by employer organisations as in an example from the Netherlands, or by purposive local associations, as in an example from Marseille.
- [5.] Finally, positive action is not charity. It does not exclusively benefit the minorities concerned but makes very good business sense, be it in manufacturing, in retailing, in the police or elsewhere, and it tends to affect everybody's working conditions positively.

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Positive action

- [6.] Employment and occupational advancement are central to life in modern societies. Common sense has led public authorities, private employers and NGOs to engage in conscious policies of equalising opportunities for all. These policies have included elements of positive action. Broadly defined, positive action would encompass all ‘measures to increase the participation of particular groups in certain spheres of economic, political or social activity, in which those groups are regarded as underrepresented’¹ but for our current purposes we want to draw a clear distinction between non-discrimination, positive action, and positive discrimination. Positive discrimination in employment would mean to hire, retain or promote people because they belong to a targeted population group rather than because they qualify for the job and hiring them in spite of other applicants actually qualifying for the job. We want to limit the meaning of positive action to efforts that would give all who qualify or all who could be made to qualify an equal chance. This obviously goes beyond simple non-discrimination on the one hand and positive discrimination on the other in that it tries to reach out and to develop rather than merely to wait and see who applies. Consequently, positive action is special in that it asks for more intensive relations between the organisation and the community.
- [7.] Legally the scope of positive action is defined in the Race Equality Directive (2000/43/EC, Article 3) covering three areas: (i) conditions for access to employment, to self-employment and to occupations, including selection criteria and recruitment conditions, whatever the branch of activity and at all levels of the professional hierarchy, including promotion; (ii) access to all types and to all levels of vocational guidance, vocational training, advanced vocational training and retraining, including practical work experience and (iii) employment and working conditions, including dismissals and pay. There are obvious parallels with gender and disability discrimination. Article 5 of the Race Equality Directive specifically allows for positive action but neither imposes it nor allows for positive discrimination. The same is true of Article 7 of the Framework Directive (2000/78/EC). In addition Articles 4 of

¹ European Commission / Italian Department for Rights and Equal Opportunities (2007) *Anti-Discrimination Annual Conference ‘Equal Opportunities for All: What Role for Positive Action?’*, Conference Proceedings, Rome, April 2007, available at: http://ec.europa.eu/employment_social/fundamental_rights/pdf/events/rome/rm07rep_en.pdf (16.01. 2008).

both the Race Equality and the Framework Directive permit the consideration of a ‘characteristic related to racial or ethnic origin’ if it is a ‘genuine and determining occupational requirement’. As of January 2007, positive action was provided for in the national legislation of at least 20 EU member states including Austria, Belgium, Cyprus, the Czech Republic, Estonia, Finland, Germany, Greece, Hungary, Ireland, Italy, Luxemburg, Malta, the Netherlands, Poland, Portugal, Slovenia, Spain, Sweden and the United Kingdom.

- [8.] Positive action has come a long way. It first appeared as ‘affirmative action’ in U.S. law in 1964. ‘Positive action’ was coined in 1976 in the context of British race relations, and recommended, in 1984, by the Council of Ministers of the then European Communities for improving the occupational position of women throughout the EC. Then it found its way into the Treaty of Amsterdam and into the year 2000 directives. While all this had to do with employment opportunities, a 2005 report also foresees it as a solution in education and housing: ‘In the view of the Network of Independent Experts, because of the specific situation of the Roma minority in the Union, positive action measures should be adopted in order to ensure their integration in the fields of employment, education and housing. This is the only adequate answer which may be given to the situation of structural discrimination – and, in many cases, segregation – which this minority is currently facing.’² Very clearly, therefore, positive action is on the agenda throughout Europe.
- [9.] Excluding both non-discrimination and positive discrimination five elements of a positive action strategy can be discerned. Each individual policy will be a combination of these ingredients, although with varying emphasis. By and large, as will be evident, this is a description of tactics and strategies that have often been used negatively, i.e. with exclusionary intent, and often effectively. Positive action is really little more than turning them around and applying them towards the goal of inclusion and equality.
- [10.] **1. Focus.** By targeting hiring, for instance, on particular geographical areas, a selection of schools, or on the unemployed it is possible to reach disadvantaged parts of the population without overtly discriminating in their favour. It is common practice among employers to situate new facilities in

² EU Network of Independent Experts on Fundamental Rights (2005) *Thematic Comment N° 3: The Protection of Minorities in the European Union* (Reference: CFR-CDF.ThemComm2005.en), available at: http://ec.europa.eu/justice_home/cfr_cdf/doc/thematic_comments_2005_en.pdf, p.24 (16 .01.2008).

places where they expect to find the kinds of workers they are seeking. Doing so becomes positive action when it taps a population group as yet poorly represented at the various levels of the workforce. Likewise, placing operations in an area with higher levels of unemployment is likely to amount to positive action provided hiring practices do not discriminate precisely against those groups that are over-represented among the unemployed. The issue tends to arise more starkly when a branch is placed in an area in order to tap the customer pool but not the local labour supply, and even more so when the branch is meant to be a drive-to facility targeting neither the local customers nor workers.

- [11.] **2. Skill.** There are two distinct strategies of installing preferences in the selection criteria. First, skills and experience more likely to be found in the minority are declared an asset or a requirement for the job. This is similar to the focus strategy, only it targets personal skill or competence that may be concentrated in minorities rather than places and categories where they might be found. This could include native speaker or second language skills, for instance, that might be useful in foreign trade or other international activities, in servicing local customers or in widening the supplier base.
- [12.] **3. Membership.** In the second preference strategy minority membership itself is made a relevant and favourable selection criterion but not an overriding one. The ease of building trust is sometimes cited as a reason for doing so both in the delivery of public services and in deriving business benefit from a minority customer base. In both instances minority members are hired in order to service members of the same minority. This might curtail their chances of advancing to more lucrative positions and could, in itself, amount to discrimination. On the other hand, group membership could be a true asset, if a team wanted to increase its diversity, learn and prove its skill at it, so that all team members would be able to service any kind of customer or client and would be able to seek instant help from colleagues in case of necessity. Under the membership strategy people are in some part being hired, retained and promoted for the identity they have, for the ability to blend in with a community others might be barred from or take very much longer to be accepted into. However, these are specialist positions, and as such could easily be dead-ends. To prove the positive quality of the action it will be necessary to subsequently mainstream the employment of those originally hired for specialist purposes.

- [13.] **4. Outreach.** Underrepresented groups are explicitly targeted with information about training, employment or promotion opportunities. Advertising in minority media or using minority languages and images is one way. Maintaining contact with schools known for their minority intake is another. The purpose is usually to increase the number of applicants for openings. This may not only require information but also motivation to overcome discouraging experiences. Outreach could also be a response to efforts by minority groups or by advocacies to improve their position in the flow of information.
- [14.] **5. Support.** People might be interested to apply but not have all the required qualifications. Additional training and education may be called for in order to equip minority applicants with the credentials and the experience to stand an equal chance with competitors. There is a great deal of activity of this kind in Europe, some of it by employers but much of it is third-party work, i.e. it is being devised and implemented by neither the prospective employers nor the prospective employees. Instead NGOs and employment agencies are at work trying to either improve the functioning of the market itself, the performance of disadvantaged groups in the market, or both. This includes both initiatives to raise their qualifications and initiatives to make existing qualifications better known or more credible. A support strategy may also have to include sensitisation to existing but unsuspected assets for the job, even on the part of the minorities themselves. It can further include mobilisation of minority groups to direct more educational funding and more training opportunities to them or the creation of lobbying groups for this purpose.
- [15.] All five strategies could also be applied to sourcing. The search for suppliers could be focused on specific areas, canteens or other services could be bought specifically from minority entrepreneurs, tenders for contract could be communicated so as to be sure to reach minorities, and (initial) support for contractors could be provided.
- [16.] In order to enable or to direct staff to discontinue discriminatory or distorting practices it is almost always necessary to review and change internal rules, both written and unwritten, formal and informal. This has been a prominent part of anti-discrimination work but we do not include it under positive action.

- [17.] Accommodation is also sometimes included in positive action. This is any policy of reducing barriers by accommodating special needs that might concern anything from dress code to food, prayer breaks and vacation times. In a sense this is reminiscent of a voluntary version of the ‘reasonable accommodation duty’ existing in respect to disability under EU law. This is often triggered by the wish to retain trained workers rather than by the need to hire new ones. Whether this should actually be included under positive action is debatable and we will not do so here.
- [18.] All this is different from outright discrimination in favour of population groups perceived to be disadvantaged. None of the five strategies require a quota, i.e. setting aside so many slots for minority applicants, but there usually is a benchmark, which could be chosen arbitrarily, or a target against which to assess progress, such as, for instance, proportionality to the population in the community. A sunset clause could be triggered by reaching the target or by having maintained target proportions for a number of years. Positive action aims to enhance minority chances in an otherwise market-driven process, not to circumvent the market. However, positive action has repeatedly come into play as the only solution to problems of filling the quotas set by more stringent policies of positive discrimination.
- [19.] The five strategies rarely occur in isolation. They come in various combinations, as the place and the time may require, and the combination may change as the organisation learns and as the policy evolves. This will be evident in the case studies provided below. They cover both the public and the private sector and are meant to highlight the opportunities and the challenges of devising, implementing and evaluating positive action.

A. Case studies³

A.1. Positive action in the retail sector

³ In addition to written sources, information for case studies was provided by: Ms Belén Sánchez-Rubio, *Secretariado General Gitano*, project coordinator *Acceder*; Mr Günther Wiechert, *Polizei Bremen*

- [20.] Retailing is an industry with lots of jobs requiring direct interaction with customers. Employees are heard and seen and the company's image with customers is influenced by staff behaviour. This is true not only of sales personnel but also of security, kitchen and transportation staff. Customer resentment is a frequent management claim against employing minority members of any kind but management rarely gives itself the chance to find out if this is actually true in a given situation. In the meantime retailers, not only in food but also in banking, have proven that minority members make valuable employees. The same is true of the restaurant sector, not least the fast food segment, and of hotels.
- [21.] A spectacular case of positive action was provided when a new hypermarket was going to be built in the northern suburbs of Marseille in 1994. Unemployment in the area was about 33 per cent and reached 50 per cent in some sections. Serious tensions arose as soon as construction started because the local inhabitants, many of immigrant origin, felt they were being deprived of a great employment opportunity. The retail company sought the co-operation of an NGO acting against exclusion, and of the public employment service. When staffing the store, in 1995, it refrained for the most part from transferring workers from other stores and instead contracted the employment service to provide 400 local residents and the NGO another 60 with severe labour market disadvantages. Except for very specific jobs, such as in meat or fish preparation, no diplomas were asked. The employment service received and reviewed about 6,000 applications, organised meetings to explain the company, the work, and the strings attached. Then traditional interviews were held and 431 people were hired. The NGO engaged in specific outreach targeting local inhabitants not registered with the employment service. From written CVs and a letter of application the NGO at first selected 150 candidates, then brought them together for a meeting and individual interviews which reduced the number of candidates to 90. They were integrated in a training programme designed by the employment service and aimed at improving French and math competence. Then the group was split into four levels of competence and logistical problems such as transportation and childcare were sorted out. An internship programme was run at another branch which, as expected, had to overcome initial concerns of the local management about how co-workers and customers would accept the interns but proved successful on both counts, not least because two ombudsmen were installed to deal with any queries and complaints professionally. After a final preparatory meeting held by the NGO, the retail company hired 58 of the candidates. Employees and

management transferred simultaneously from other branches were given training on the city and on the origins and experiences of the local population. (These courses were subsequently repeated throughout the company.) All this took about 18 months. The extra training required due to the waiving of the diploma requirement was financed from a European Social Fund grant. Afterwards the diploma requirement was reinstated but the positive action continued. By the summer of 2002 about two thirds of the original employees were still working at the store. Most noteworthy was the impact on the 200 other shops in the complex. They adopted a charter of preferential recruitment of local population. A fast-food outlet offered 50 jobs, a Do-It-Yourself-supermarket another 60, and smaller shops two or three each.

- [22.] What started as a business decision completely disregarding local conditions turned into positive action using three of the five strategies. Firstly, the locality chosen permitted for a focus on local hiring and on the unemployed who in turn were largely of immigrant background. Secondly, outreach to a severely disadvantaged group especially but generally to the local population was central and was facilitated by third parties like the employment service and the NGO. Thirdly, these same partners also were instrumental in pursuing the support strategy that made a very large proportion of the eventual 600 employees fit the job descriptions. No conscious attempt, however, was made to use either the membership or the skill strategy. However, there were comments that hiring minority rather than other security staff was an important part of the success. The stories of other retailers in food or banking could be added at this point. They may be less spectacular but no less impressive. The message is clear: positive action in retailing can take an effort but is not only feasible, it reaps benefits.

A.2. Positive action in manufacturing

- [23.] In manufacturing there is little customer interaction, there is little chance for advancement, any skills learned in one establishment are of relatively little use in others, shift-work is the norm, and yet, while the work is poorly regarded in social terms, it is reasonably well paid and thus desirable to a certain degree. Employees for manufacturing tend not to be in short supply, in spite of facilities usually being out of town thus requiring commuting time. Shop floor personnel is often drawn from all kinds of minority and

immigrant backgrounds. Union density is often high and industrial action is easier to organise than elsewhere. The ethnic diversity rarely extends to management, as is also true of gender. This is where positive action usually comes in, if and when it does. Against this background diversity, anti-discrimination and anti-harassment policies are well known in manufacturing but positive action much less so.

[24.] Car manufacturing including all the suppliers makes up a large slice of manufacturing in Europe. A particularly prominent example of using positive action in order to diversify the management was set at Ford Europe. Ford has manufacturing operations in the UK, in Germany, Belgium and Sweden. The British operations, at the end of the 1990s, faced severe problems of discrimination, were being sued, and all this was highly public. From 2000, sweeping changes were made in order to turn things around. They included, in particular, a positive action policy to draft more members of ethnic minorities into management positions. After appointing a diversity recruitment officer, in 2001, outreach to universities was put in place, in 2002, and was consciously focused not only on top institutions but on 35 of the top 60 universities in order to include those with a larger minority student body. At the same time a mentoring scheme twinning students with Ford managers was initiated in which the managers serve as role models, though not necessarily for a career at Ford. Over a six-month period, the students are provided with five days of training, including specialist advice on CV-writing, interview techniques and presentation skills. To publicise the scheme, Ford distributed a quarter of a million leaflets at universities and career fairs, and placed advertisements in local newspapers. Additionally in 2003, the company ran a radio campaign through the student broadcasting network covering 52 universities. Links with a range of minority student and academic organisations were also cultivated. These measures were very successful. The minority share among the 10,000 graduate job applicants was 34 per cent in the 2001-2002 financial year, nearly three times the 12 per cent of the previous year. The share among graduate recruits rose from 17 per cent to 19 per cent. 22 students were twinned in the 2002 pilot, ten of which were part of a minority. The next year it was 14 out of 23.

[25.] A similar approach was taken to recruitment for apprenticeship. With the largest plant situated in the southeast of London, simply focusing on the nearby estates in the east and the south of the city helped to raise the minority intake. This was aided further by placing advertisements in the respective media, in places of worship, youth clubs, community groups,

leisure centres and on the London First website dedicated to promoting business opportunities in the capital. An extensive programme of school visits designed to increase the representation of black and Asian school leavers on Ford's technical trainee training programme was also undertaken.

- [26.] A comprehensive monitoring system was created in order to evaluate progress towards equal opportunities. Personnel are monitored by grade and by location as well as by changes in the overall workforce composition. In particular, the representation of ethnic minorities is scrutinised at key stages within the external and internal recruitment process to ensure that fair recruitment, selection, promotion and development decisions are being made. Internal statistics are compared with the local population and are collated in a company-wide annual equal opportunities report.
- [27.] Ford did not do all of this by itself. Heeding the advice of the Commission for Racial Equality and close co-operation with the trade unions played a key role in reshaping the company. The outreach activities not only netted job applicants but also advice on how to best proceed.
- [28.] Overall, Ford's British employment shrank by 10,000 between 1998 and 2001 but the minority share improved slightly from 13.5 per cent to 13.9 per cent. Ford's image was not only repaired but Ford was very quickly held up by the Commission for Racial Equality as the best manufacturing company in terms of equality of opportunities. Other Ford subsidiaries around Europe are also involved in the drive for equal opportunities and equality of outcomes and have all posted their own schemes within given national contexts, and some of these also included elements of positive action, more likely the support strategy than any of the others. Ford of Britain, however, has been at the forefront of outreach and focus activities including support activity in the form of mentoring, which moreover was not aimed at developing its own staff but served to benefit the individuals and the community and only indirectly the company.
- [29.] One case of positive action on the shop floor rather than in management occurred in a subsidiary in Vienna, Austria, of a very large household and electronic goods manufacturer, in the early 1990s. The changeover to lean production required workers on the line to be able to communicate. Checks led to the conclusion that about 180 workers did not have sufficient command of the company language to function under the new conditions. They were going to be made redundant and replaced by others. The

personnel manager having experience of living abroad suggested that on-site German courses before or after the shift might be a feasible alternative and went on to organise them. They were taken up well, although eating into the time couples could spend together or interfering with childcare and other duties. In this way a support strategy replaced the employee substitution originally envisaged.

A.3. Positive action in the police

[30.] By the mid-1980s it had become clear in Britain and the U.S. that colour might make a difference in policing, as had been suggested even earlier for social work, and as might also be argued for teachers. Colour was reconceived as a particular merit for a job, as one aspect of social skill. This was a very big step to take when colour had long been seen exclusively as negative. Having the right colour for the case is parallel to dressing right for the case, having the right gender or being of the right age. This opens up the police for a positive action policy that includes the membership strategy, a trend reinforced by the simultaneous conversion to community policing. But policing does, of course, also require other skills, and so it was never enough merely to hire on the basis of complexion. In fact, not in all EU member countries would it be permissible as yet. These other skills are partly social but largely occupational and have begun to create further demand for positive action. Especially with ongoing immigration on the one hand and the internationalisation of crime on the other the skill strategy came to complement and to replace the membership strategy. Being able to understand and to speak the vernaculars and the languages of those being policed entered job descriptions as an occupational skill, not only in the police but also in secret services. The choice of either strategy exerted pressure to find more applicants, suitable applicants, i.e. to engage in outreach activities, and almost naturally seems to have led to support strategies, i.e. activities designed to make applicants suitable.

[31.] By now many police departments have embraced positive action or resorted to it. Others will follow. One example is that of Bremen, an important port in the north of Germany. The city itself had 545,000 residents in 2003, with another 120,000 people living in the rest of the federal state. Demographically Bremen is marked by an ageing and declining population, and by a continuing rise in the share of population with minority

background. In 2003, citizens of other countries made up 12.9 per cent of the population. The labour force participation of permanently resident men not holding a German passport is only 57.8 per cent against 68.2 per cent among male German citizens. Among women it is 40 per cent and 55.4 per cent, respectively. The unemployment rate of permanent residents without a German passport is 27.4 per cent, more than twice that of German citizens. Youths with minority background appear to have considerable problems finding a foothold in the vocational training system. The share of young delinquents with ethnic backgrounds is unusually high – about 80 per cent of the so-called ‘intensive delinquents’, i.e. those that committed more than five severe violent and/or property crimes in a year.

[32.] Against this background, from 2000, the city started to develop political momentum towards better employment integration of minorities. All departments were asked to draft plans for increasing the share of employees with minority background. The Police Department also drafted a new employment policy pursuing a number of aims: to recruit personnel representing the ethnic background of the community; to reduce conflict potential between groups through language and intercultural competencies, and to increase the value of the Bremen Police as an equal service provider for all inhabitants. An obstacle was that ‘up to now, ethnic minorities have been underrepresented in the Bremen police force, as they often do not pass the qualifying examination for employment in the police department’.⁴ In 2004, the Police Department submitted a proposal for an EU EQUAL project called *MigrantInnen in die Polizei Bremen* [Immigrants into the Bremen Police] to run from 2005 to 2007. The bid was successful and made possible the implementation of a positive action policy combining four of the five strategic elements, i.e. ‘skill’, ‘membership’, ‘outreach’ and ‘support’.

[33.] In order to successfully increase the proportion of police officers with minority backgrounds a series of measures were adopted:

- widening the selection criteria with regard to citizenship in order to raise the number of applicants (membership),
- adjustment of selection criteria to include intercultural competence and native speaker skills in languages other than German (skill),

⁴ http://www.equal-hb.de/uploads/Englisch-Projektliste_ProViel_28_33a.pdf, p.4 (03.12.2007).

- information materials was targeted on schools and cultural fairs with a focus on sites bringing together larger numbers especially of Turkish origin youth (outreach and focus),
- organisation of special preparatory classes for selection procedures (support),
- internship possibilities (support),
- provision of German classes (support),
- granting a second opportunity for candidates failing the German test of the qualifying exam (support).

[34.] From 2007, EU citizenship was no longer a strict requirement for police service. If it is deemed necessary for effective police work that persons of a particular citizenship be hired the city and state government could decide to make this a relevant characteristic. For the time being, population groups making up more than 5 per cent of Bremen's population (approximately 3,300 persons) are targeted, but especially Turkish citizens, since they amount to about 11 per cent. Also from 2007, intercultural competence was added as a mainstream selection criterion. Ethnic membership or experience working or studying abroad are expected to be accepted as proof of competence.

[35.] In co-operation with a private educational institution the police began to offer preparatory courses for the entrance exam. Six preparatory courses were run between 2005 and 2007 with 78 participants with ethnic backgrounds. The preparatory classes continue. They are combined with an option for a two-month internship. In 2006, there were 12 interns with minority background. In 2007, there were only eight because several eligible participants gained university admission (which in Germany is centrally regulated and may require several years of waiting). German classes with 60 regular class hours were provided for all those candidates that failed the German test of the 2007 exams but passed everything else. They were then given a second chance to pass the German test too.

[36.] At the time of writing there are 46 police officers with minority background, i.e. 1.9 per cent out of a total of about 2,400. In 2007, 78 new staff were recruited, of which 15, i.e. 19.2 per cent, were deemed to be of minority status. In 2005, the share had been 4 per cent.

[37.] So far no need is felt in Bremen for specific activities to enable or secure the promotion of staff with minority background. Professional mobility is thought to be largely pre-determined depending to some degree on individual merit, occupational aptitude and competence. All officers begin their career from the lowest position no matter what their previous qualifications were. Neither are there any measures yet to retain staff. In the opinion of a representative of the Bremen Police there has been no unusual turnover of officers with ethnic backgrounds. On the contrary, he believes, there have been no noticeable problems in retaining staff with minority background. Elsewhere, with longer experience, both retention and promotion have emerged as areas for positive action on a par with recruitment. For instance, in response to legal requirements and Home Office recruitment targets the West Yorkshire Police, in 2005, established the Dismantling Barriers Steering Group. The Group developed an action plan split into three sections covering recruitment, retention and progression.

- In recruitment much of the work was outreach in the form of targeted advertising. The Group commissioned research enabling the Force to target postcode areas. Local Black and Minority Ethnic (BME) media especially radio and newspapers were addressed. Recruitment seminars to help BME candidates understand the hiring process were also held. A Positive Action Co-ordinator was put in place to maintain contact with applicants supporting and encouraging them.
- A number of new activities were developed in order to secure retention. One is early intervention to speak to people who are indicating a wish to resign. Another is ongoing support from induction and initial training to a more effective analysis of BME officers' reasons for resignation.
- With regard to progression measures include analysis of reasons why BME candidates have failed to get through promotion boards, and subsequent support and development. Specialist departments hold open days to attract BME officers to apply for specialist posts, and they hold workshops and seminars to inform officers about the High Potential Development Scheme and the Leadership Development Programme. Further, research was undertaken into establishing mentoring or coaching schemes for BME applicants and staff.

[38.] Since individual constabularies do not do their own hiring, choosing a focus strategy is less likely for the police but this too has come into play. The police in Vienna, Austria, a city with 19 per cent not having Austrian

citizenship, 29 per cent having been born abroad, and around 40 per cent or perhaps more having at least one parent born abroad, had developed a habit of finding staff in the surrounding agricultural areas rather than in the city itself. From 2005, with assistance from the city's diversity department, a concept was developed. In mid-2007, plagued, among other things, with the rural staff's pervasive wish to no longer work in the city, a policy of increased hiring among the urban population was declared. Here we see a geographical refocusing of recruitment efforts towards a population hitherto almost entirely excluded from police service. With a need of up to 300 new recruits per year and with only one in ten applicants being suitable in terms of social skills; engaging in other positive action strategies, too, became a matter of course. Outreach activities to inform of the new policy and to demonstrate sincerity included multilingual leaflets and folders, press conferences by the chief of police, and question and answer meetings by police in conjunction with advisers from the city's diversity department. All of these were focused on parts of town with substantial concentration of immigrant families and on media accessible to them. This also included showing around the few existing female and male staff with recent immigrant background.

- [39.] The police is a job with a great deal of customer contact, often in highly adversarial circumstances. These examples could be multiplied and they show that positive action is not only feasible but a necessity. They also indicate there are synergies between what the police do in order to provide effective service and what they do in order to create and maintain good working conditions within.

A.4. Third-party positive action programmes

- [40.] Positive action is frequently initiated by stakeholders that are themselves neither employers nor the would-be employees. These third parties include NGOs of various kinds, employment services, government departments, social partner organisations and others. There is a lot of this kind of activity, frequently in relation to refugees. Not themselves being the final employers, initiators are usually restricted to outreach and support activities. Public institutions may have to observe legal restrictions forcing them to resort to focus strategies rather than outright membership. There is a temptation to see the minority members gaining employment as the beneficiaries of these

programmes but in reality one has to assume there is a benefit on all sides including the mediating third party.

[41.] Since 2000, *Secretariado General Gitano*, a Spanish Foundation, has been managing the programme *Acceder* ('to accede'). It aims to accomplish greater diversity in the labour market. The programme is not restricted to Spain's Roma population but does draw most of its participants from this minority. *Acceder* comprises five stages but the individual participant will not necessarily start from stage one.

1. Young people with Roma backgrounds are invited to participate in the programme. They are approached by way of educational centres, social services, other associations or by word of mouth.
2. Interviews are made with each of the participants tracing their needs and interests. On this basis a diagnosis is made regarding possibilities for training or employment in the locality.
3. Education and orientation in employment are implemented.
4. Support during the training.
5. Support in employment entry.

[42.] In other words, the programme combines outreach and support at least up until entry into the job. The programme's success lies in the personalised itinerary drawn up in stage two and the care that is taken in doing so. It has had great impact both in its operational area including 45 municipalities and 13 autonomous communities and at the national level and has received much praise. Initially planned to run from 2000 to 2006 its funding has been extended to 2008. The plan was to attend to 15,000 persons and to manage at least 2,500 employment contracts but, by May 2007, the actual number of participants reached 34,596 and the number of contracts rose to 24,495 of which 45 per cent had a duration greater than three months and 5 per cent were permanent. The contracts involved 10,507 employees, and 87 per cent were made with enterprises. 55 per cent of the participants were under the age of 30, 33 per cent were first time employees, and 52 per cent were women. While 76 per cent of the contracted men had a Roma background, the same was true of only 63 per cent of the contracted women. With women

40 per cent of the contracts were part-time but only 10 per cent of those made with men.⁵

[43.] Public employment services have also been engaging in third-party positive action. In 1998, the Danish employment service began the Icebreaker scheme. This is pure outreach, moreover made easy by the target group, due to its recent unemployment, being registered. It provides employers lacking experience with immigrants with a subsidised learning opportunity of six months. The hope is that they will not only continue to employ the first immigrant but add others to their workforce. In order to qualify for Icebreaker participants must have received at least some basic professional qualification in Denmark or abroad and must be able to work without the need for further education or training. Having a driving licence would satisfy this condition. Another requirement is unemployment for at least two months within the last eight months. Participating enterprises must not have previous experience with employees of non-Danish origin, and there has to be sufficient labour demand in the given occupation in order to forestall as much as possible that workers will be laid off again after the subsidised six months. This is much more likely to be the case in more highly qualified occupations than in jobs requiring no more than a driving licence. By the end of 2001, there had been 400 participants, and as expected they were mainly technicians, engineers and information technology specialists. An evaluation, two months earlier, showed 71 per cent of participants to be in regular employment. 4 per cent had started an education.

[44.] Governments and social partners have also engaged in third-party positive action. For instance, in 2000, the Dutch Minister of Social Affairs and Employment, the Minister for Integration and Urban Policy, and the *Midden-en Kleinbedrijf Nederland* (MKB) [the Dutch Federation of Small and Medium-Sized Enterprises] signed the so-called 'Minority Covenant' in order to raise employment in parts of the minority population. A central co-ordination unit was established for employers to report their vacancies to while labour exchanges guaranteed that a qualified jobseeker would apply for the job within seventy-two hours. The labour exchanges also guaranteed that two out of three applicants would be minority members. The programme included a publicity campaign, consisting of multi-lingual brochures, a

⁵ <http://www.gitanos.org/acceder/resultados.html> (07.12.2007), text available in Spanish; for detailed information see: Fundación Secretariado Gitano (2006) *Observatorio de Empleo*, available at: <http://www.gitanos.org/publicaciones/observatorio/06/index.html> (07.12.2007).

website and a newsletter. Over a period of 29 months, MKB member companies registered a total of 78,000 unfilled job vacancies at the Centres for Work and Income, of which 62,000 were filled with ethnic origin job-seekers. 63 per cent of those new employees were still in employment a year after taking up the job, albeit only half of them in the original one and the other half in new, often short-term employment.⁶

- [45.] There are other examples of government and social partner intermediation in Europe that helped to involve SMEs. In Ireland public sector organisations have begun to offer internships to the traveller population that open the way for employment in the private sector, and in the Flemish part of Belgium a programme of supporting action plans against discrimination and for positive action has gained considerable momentum among SMEs since 1998.
- [46.] Evidently, third-party positive action can be highly effective, if the needs of both the target population and employers are well understood, and all parties including the administrative and political authorities are supportive. This may, in fact, be the only way of bringing positive action to small and medium enterprises that would not individually have the capacity or the know-how to engage in outreach, to do the research required for a focus strategy or be cognisant of the legal options.

Conclusions

- [47.] As these examples clearly show, positive action is now widespread, is being operated under a wide variety of conditions, counters a wide variety of challenges, and works. Evidently positive action does indeed combine five distinct strategies that are being pursued by a variety of players both private and public, business and association or foundation. Positive action is revealing itself as a flexible set of activities answering to perhaps the full diversity of needs an organisation could develop as it considers its place in a community or its relations with a diverse labour market and customer base.
- [48.] The evidence demonstrates that positive action, in order to be a success, is a matter of co-operation within the organisation but especially between it and

⁶ E.R. Engelen (2004) 'The Economic Incorporation of Immigrants: The Netherlands', in: J. Blaschke / B. Vollmer (eds.) *Employment Strategies for Immigrants in the European Union*, Berlin: Edition Parabolis, pp. 445-496

its social and political environs, and very much a matter of pooling the knowledge and the experience of those familiar with a particular community or target group. Positive action, one might conclude, requires full immersion, at least initially. It is not done by any organisation, large or small, by itself, and perhaps cannot be done that way. In each instance we know that organisations with specialist knowledge of the local labour market and the distribution of advantage and disadvantage in it were involved. In other words, while we are well advised to heed the lessons learned, positive action is not an off-the-shelf product but needs to be tailored to the specific demands and conditions of each case. Positive action is one way of placing an organisation in a community. Indeed, its hallmark and condition is sustained and at times intensive interaction with community leaders and spokespeople. Obviously this is beyond the capacity of SMEs as it would be beyond the capacity of the community to interact with each SME individually. For SMEs it takes the good offices of intermediaries, ideally perhaps an association of the SMEs in conjunction with an organisation advocating the equal employment and advancement of minority groups that can draw on partners for the know-how and the ingenuity that help to make positive action a success. This could be a local, purposely made association but it could be a well established national association.

[49.] Several of the cases included the setting of goals to be achieved through positive action. In as far as they were numerical goals they did sometimes, but not always, refer to the composition of the population in the community. In principle, though, positive action could be pursued without a numerical goal other than to achieve change in a set direction, or the numerical goal could be completely arbitrary. Quite apart from whether there is a goal or not, there always needs to be an aim. None of the cases here but others that could be shown failed or made little progress because of a poorly defined or sometimes poorly communicated aim. The aim, in turn, has to arise from a rigorous analysis of the needs in a given situation. A successful project, therefore starts from a meticulous assessment of the needs, then defines clear aims, next devises the activities that will achieve the aim within the timeframe envisaged, and finally sets down the terms of evaluating not merely the activities but the actual outcomes relative to the aims and the needs. Success seems to be equally impossible when there is insufficient management buy-in as when there is insufficient or inadequate involvement of other stakeholders inside and outside the organisation.

[50.] Finally, from several of the examples it is apparent that positive action does not exclusively benefit the minorities concerned. It is not a charity. It makes very good business sense, be it in manufacturing, in retailing, in the police or elsewhere, and it tends to affect everybody's working conditions positively.

Recommendations

[51.] Whatever the legal base, positive action is possible and feasible and can be made to work.

[52.] Do not attempt positive action on your own. It cannot work as a unilateral strategy.

[53.] From the very beginning, involve partners with a keen interest in and specific knowledge of the labour market or the supplier and customer base you operate in.

[54.] As with other projects, make a thorough assessment of the needs of all concerned, then jointly and clearly define the aims to be reached.

[55.] Small business can be an important partner in positive action but the individual SME does not have the capacity to initiate it.

[56.] Consider the availability of external funding, at least for the planning, preparation and early implementation period.

[57.] Positive action can be initiated by public authorities, and often depends on the ability of public authorities to form regional or national pacts.

[58.] Do not view positive action as a charity. It benefits the organisation, its customers, and its employees as much as the minorities that are targeted.