



# **European Network of Public Employment Services**

## **Mapping PES responses against labour market discrimination**

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# **Mapping PES responses against labour-market discrimination**

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## TABLE OF ACRONYMS

ADR	Anti-Discrimination Rules
EC	European Commission
EU	European Union
LGBTIQ	lesbian, gay, bisexual, trans, non-binary, intersex and queer
OECD	Organisation for Economic Co-operation and Development
PES	Public Employment Services
PES Network	European Network of Public Employment Services
WGI	World Governance Index

## EXECUTIVE SUMMARY

Labour market discrimination is especially damaging as it widens economic inequalities and reinforces discrimination in other areas of life. During the past decades, the EU has paid increasing attention to fighting discrimination and has made significant progress in promoting diversity in the workplace. Despite these achievements, there are further efforts needed, both at the national and EU level.

This report focuses on the potential role and actual practices of public employment services (PES) in combatting labour market discrimination. In legal terms, most countries' equality bodies are the main government agency responsible for detecting and sanctioning discrimination in the labour market and other areas of life. However, PES can also play an important role through actions to counter the disadvantages encountered by jobseekers experiencing discrimination and providing information and incentives for employers. Moreover, if PES promote diversity within their own human resources strategies, this can strengthen PES efforts to reach out to discriminated groups and will also help them understand what other employers need.

Discrimination in the labour market may affect employment, occupational choice, and progress to management positions as well as wages. It may take direct forms and indirect forms. The latter happens when a policy is applied uniformly but affects a particular group negatively, due to some characteristic they share.

The causes of discrimination may be rooted in individual tastes, culture, stereotypes that relate to the perceived productivity of a group, or in the perceived average characteristics of a group. The existing theories that explain discrimination point to a variety of tools that PES may use to tackle discrimination.

The range of potentially effective tools may vary across discriminated groups. Supply-side measures mitigating jobseekers' disadvantages are important for groups that face barriers in accessing education, those that face multiple forms of exclusion, and those lacking information and social networks in mainstream society, as discussed by related PES Network thematic review workshops and their supporting papers e.g. on vulnerable groups or on activating the inactive. Awareness raising and counselling for employers may be needed for all groups, and especially where discrimination is based on lack of information and stereotypes or outdated social norms. Financial incentives for employers may be most effective for specific groups (e.g. persons with disabilities or youth with limited work experience, where discrimination is typically based on the perceived lower average productivity of the group).

### *Findings of the PES survey*

A recent survey commissioned by the European Network of Public Employment Services collected information on current PES practices regarding labour market discrimination. The findings summarised below are based on the response of 22 European PES, pertaining to June 2021.

Regarding their own human resource strategy, seven of the responding PES have a proactive and elaborate diversity strategy for all (BE-Actiris, BE-VDAB, DE, FR, IE and NL) or some discriminated groups (AT for women). However, most PES reported of having a general commitment (laid down in national legislation, ministerial decrees, or the national diversity charter) to ensure equal opportunities to all in their hiring process and human resources management.

Regarding services to clients, current practices vary greatly across PES. In most countries, the mandate of the PES is limited to its general role in supporting job search and protecting jobseekers' rights against labour market discrimination. However, some PES have a detailed and proactive anti-discrimination strategy, some other PES mainstream support



for discriminated groups into their overall approach of individualised services, while others focus on labour market vulnerabilities, and tackle discrimination indirectly.

Though most PES include the equal treatment in their strategy and many have concrete targets attached, they lack evidence on the effectiveness of anti-discrimination measures.

There are two sets of tools that almost all PES use. First, in their internal processes, PES ensure access to information and physical location to all jobseekers and inform their counsellors of the obligation to guarantee equal access to all jobseekers. Second, all PES use some incentives for employers. They check job advertisements to remove discriminatory elements before publishing them and almost all PES provide financial incentives to employers to hire discriminated groups, and advice and financial support for workplace adaptation to support the hiring of jobseekers with a disability (see Table 1).

Targeted measures to support jobseekers from discriminated groups are slightly less widespread: 14 of the respondents employ dedicated staff or offer mentoring and financial incentives to support jobseekers belonging to a discriminated group. Only half of the PES reported having an explicit policy to employ counsellors or mentors belonging to minority groups. About half of respondents provide supply-side services and measures to jobseekers with a disability (ability testing, job coaching, vocational rehabilitation or job trials).

Elaborate internal processes to ensure equal access to PES services are also relatively less common. Barely half (11 to 13) of the responding PES have discrimination cases examined by an independent body, use target indicators for participation in the active labour market policy measures (ALMP) or have a facility to report discrimination anonymously. However, there are several good practices in this area, such as the Irish PES regularly monitoring the number of Roma using the PES, referred to training and education, and those referred to state employment programmes. Several PES also have elaborated internal procedures for tackling discrimination by PES staff (e.g. NL, SE and SI).

There are some less commonly used demand-side policies, such as awareness-raising for employers, and subsidies for personal assistance (for jobseekers with a disability).

There are several policy tools that are potentially effective but are relatively rare in current PES practice: most of these require a comparatively high level of expertise, financial resources or level of organisational development within the PES. There are two countries (AT and SE) where almost all of these policies are in place. These include (1) elaborate provisions for reporting discrimination and handling complaints, (2) mentors belonging to a minority group and adequate income support for vulnerable jobseekers during ALMP participation, and (3) specialised employer counselling on anti-discrimination policies and tools.

All PES reported cooperating with several stakeholders in tackling discrimination, especially with employers, their associations and trade unions. At the same time, several PES reported facing difficulties due to the lack of openness on the part of employers. Importantly, only half of the responding PES cooperate with equality bodies, and none reported cooperation with interest organisations representing discriminated groups, except those of persons with disabilities.

### *Recommendations*

There seems to be room for broadening the set of tools used by PES to reduce discrimination. The current toolbox is dominated by demand-side policies, which might be effective but may fail to tackle all sources of discrimination. There may be a need to spread the use of and broaden the range of supply-side measures and internal procedures.

The need for these additional measures is likely to vary across the groups at risk of discrimination. These considerations also underline the need for more evidence on what works and what is cost-efficient for each target group. Lastly, PES may also need to increase the range of stakeholders they cooperate with in redressing discrimination.

**Table 1. Summary of PES policies regarding labour market discrimination**

PES are ordered according to their institutional approach to tackling discrimination (c.f. last three rows).

	AT	BE-ACTIRIS	DE	NL	IE	FR	HR	LV	SE	EL	ES	LT	BE-VDAB	EE	PL	CY	DK	IS	MT	SI	SK	BG	total	
PES premises and information made accessible to all	X	X	X	X	X	X	X	X	X	X		X	X	X	X	X		X	X	X	X	X	20	
The obligation to ensure equal access is mentioned in PES counsellors' protocol	X	X	X	X		X	X	X	X	X		X	X	X	X	X	X	X		X		X	18	
PES counsellors receive initial training on equal access	X	X		X	X	X	X	X	X	X	X	X	X	X		X		X		X		X	17	
Reports of discrimination are examined by independent body	X	X		X	X	X	X	X	X	X		X		X						X		X	13	
Target indicators for the participation of vulnerable groups	X	X	X	X		X		X		X								X		X	X	X	11	
Facility to report discrimination anonymously		X	X	X	X		X	X	X				X			X				X		X	11	
PES have protocol for reporting discrimination	X	X		X	X		X	X	X				X			X							9	
PES employ officer responsible for equal treatment of minorities	X	X	X			X			X			X						X					7	
PES have dedicated staff to support minorities	X	X	X		X	X	X	X		X		X	X			X	X	X		X			14	
Mentoring is offered to all in need		X	X	X	X	X		X	X			X				X		X	X	X	X	X	14	
Incentives (financial/other) for people at risk of discrimination	X	X			X	X			X		X	X		X		X	X	X		X	X	X	14	
PES employ counsellors or mentors belonging to minority	X	X	X						X	X				X		X	X	X			X	X	11	
Adequate income support provided during training/ALMP	X				X		X		X			X		X				X		X		X	9	
Outreach activities directly engaging the minority community	X	X								X			X	X		X	X				X		8	
Job preparation, job trials	X	X	X	X	X	X	X	X	X	X							X	X	X	X		X	15	
Vocational rehabilitation	X	X	X	X	X		X		X	X		X					X	X	X	X			13	
Follow-up support				X	X	X			X	X		X		X		X		X	X	X		X	12	
Job coaching	X		X	X					X	X						X		X	X	X	X	X	11	
Ability testing		X	X	X				X	X	X							X	X	X	X			10	
Systematic checking of job ads	X	X	X	X	X	X	X	X	X		X	X	X	X	X	X	X	X	X	X	X	X	X	21
Advice on workplace adaptation	X	X	X	X	X	X	X	X	X		X	X		X		X	X	X	X	X	X	X	19	
Financial support for workplace adaptation	X		X	X	X	X		X	X	X	X	X		X	X	X	X	X	X		X	X	18	
Financial incentives to hire minority jobseekers	X	X	X	X	X	X	X			X	X	X		X		X	X	X		X	X	X	17	
Awareness raising for employers	X	X		X		X	X	X	X	X		X	X	X		X		X		X	X		15	
Subsidy for personal assistance in commuting /performing work	X		X	X		X		X	X			X		X	X	X	X	X	X		X		14	
Counselling on other anti-discrimination tools (employers)	X	X				X			X			X	X	X				X				X	9	
Sanctioning discriminatory employers	X								X						X		X	X		X	X		7	
Anonymous recruitment is actively promoted to employers	X					X		X								X						X	5	
Checking if employer has an equality plan (if required)	X							X														X	3	
PES have internal working def. for discrimination	X	X	X	X					X				X	X	X							X	9	
Specific target groups are identified	X	X	X						X	X						X		X		X	X	X	10	
General approach*	a	a	a	a	a	a	a	a	c	c	c	c	b	b	b	b	b	b	b	b	b	b	d	

Note: \* a) PES code of practice/protocols specify detailed anti-discrimination rules (ADR) and these are applied in practice; b) National ADR/legislation apply to PES practices but not explicitly integrated into internal rules; c) National ADR are explicitly mentioned in PES code of practice, but no measures are specified; d) other.

Source: PES Network Survey.

## 1. INTRODUCTION

### 1.1. Background and focus of the report

Labour market discrimination violates fundamental human rights as established by ILO Conventions C100 and C111. Discrimination in the labour market is arguably one of the most damaging forms of discrimination as it widens economic inequalities, reinforces discrimination in other areas and deepens social exclusion. Recent empirical findings also suggest that higher levels of discrimination are associated with lower economic growth (Asali and Gurashvili, 2020).

Over recent decades, discrimination has received increasing attention in the EU. In 2000, the Commission approved two ground-breaking directives banning workplace discrimination on the grounds of religion or belief, age, sexual orientation, disability (covered by Directive 2000/78/EC), racial and ethnic origin (covered by Directive 2000/43/EC). The commitment to combat discrimination has been reinforced by several documents, including:

- the Charter of Fundamental Rights adopted in December 2000;
- the Second Part of the Consolidated Version of the Treaty of the European Union;
- the Recast Directive (2006/54/EC) reinforcing a number of existing directives on gender equality in employment and occupation;
- other documents about gender equality, such as the Directive on gender equality in the access to supply of goods and services (2004/113/EC), the Parental Leave Directive (2010/18/EU), and the Commission Recommendation on pay transparency (2014/124/EU);
- the Proclamation of the European Pillar of Social Rights adopted in 2017;
- a series of action plans and strategies adopted in 2020, including the 2020-2025 EU Gender Equality Strategy, the 2020-2025 EU Anti-racism Action Plan, the new Roma Strategic Framework, the 2020-2025 LGBTIQ Equality Strategy, the EU Strategy to strengthen the application of the Charter of Fundamental Rights, the 2021-2030 Strategy for the Rights of Persons with Disabilities, and the European Pillar of Social Rights Action Plan.

Despite these significant efforts and advancements, discrimination remains a challenge in the EU, which underpins the need for further research on anti-discriminatory policies.

Human rights-based approaches recognise that employers can be instrumental in protecting, and also have a responsibility to comply with, human rights and labour standards. The approach also emphasises the duty of public institutions to promote compliance by introducing and enforcing adequate regulations and providing both information and incentives to employers.

PES are one of the key actors that can effectively elaborate and implement policies reducing labour market discrimination. Several strategic documents call on employment and training providers to reinforce support for vulnerable groups<sup>1</sup>. There is, however, very little empirical evidence on PES practices in this area, this report contributes to filling the gap.

The report aims to support evidence-based policy making by mapping current PES practices and providing a detailed 'menu' of good practices for EU PES to tackle various forms of labour market discrimination. PES can address labour market discrimination in three key areas. Firstly, PES can elaborate and implement policies to reduce discrimination on the

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<sup>1</sup> For example, the Council recommendation on vocational education and training (VET) calls on VET systems to be inclusive for vulnerable groups, while the reinforced Youth Guarantee recommends reinforcing outreach efforts towards vulnerable youth, especially NEETs including those with disabilities and with multidimensional problems.

labour market, especially in the hiring process. Secondly, as an employer, PES can apply good practices to eliminate discriminatory elements in their own internal processes. Finally, PES may implement good practices to reduce discrimination in their services for jobseekers.

This report also supports the implementation of the Strategy for the Rights of Persons with Disabilities (2021-2030)<sup>2</sup>, and the related initiative of the PES Network to prepare a toolkit for the labour market integration of persons with disabilities. In 2022, the Commission will present a package to improve the labour market outcomes of persons with disabilities, seeking cooperation with the PES Network and other stakeholders. The package will support the implementation of the relevant Employment Guidelines, provide guidance and foster mutual learning among other policies on promoting hiring perspectives through affirmative action and combating stereotypes. Accordingly, tackling discrimination against disabilities will be discussed in more detail in this report.

The report is structured as follows. The following sections briefly review the business case for equality and diversity and forms of discrimination. Chapter 2 describes potential forms and existing empirical evidence of discrimination in the recruitment process. Chapter 3 presents current PES practices of tackling discrimination, largely based on an in-depth survey conducted with the PES in the 27 EU Member States as well as Iceland, Liechtenstein and Norway. Based on the insights from the desk research and the empirical part, Chapter 4 draws some key lessons and policy implications.

### **Terminology**

Various groups face discrimination. Legislation specifies the characteristics for which it is specifically forbidden to discriminate against. These are therefore referred to as 'protected characteristics' throughout the report. However, other groups in a country may also experience discrimination because of characteristics not specifically mentioned in the law. Furthermore, a certain overlap exists in policies and measures fighting discrimination and those aimed at supporting groups facing problems on the labour market. When multiple groups are addressed, terms such as vulnerable groups, disadvantaged groups, minority groups, and groups facing discrimination are at times used more or less interchangeably in this report.

## **1.2. Evidence supporting the business case for equality and diversity**

Several studies consider, the business case for equality and diversity: the benefits from having a diverse workforce and the costs of a lack of equality practices.

- Ozbilgin and Tatli (2011) found evidence that a lack of an equality management policy could lead to higher staff turnover, and loss of talented employees. Sanchez and Brock (1996) reported that perceived discrimination can contribute to negative employee outcomes such as lower organizational commitment, lower job satisfaction and higher work tension.
- Lorenzo et al. (2018) found that increasing the diversity of leadership teams leads to more and better innovation and improved financial performance. Wider benefits from inclusive policies beyond addressing gender equality have been identified, for instance in a study for the IMF by Sahay and Cihak (2018). They concluded that increasing the representation of women at all levels of the global financial system would foster greater stability in the banking system and enhance economic growth.
- Recent research by Fernandez-Torres, Palomo-Zurdo, and Gutierrez-Fernandez (2022) analysed data from 162 publicly listed companies from the period 2005 to

<sup>2</sup> The Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions was published in March 2021 <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=COM:2021:101:FIN>.

2017 finding that the most profitable are those that have the greatest female representation on their boards of directors.

- A literature review by Cox and Blake (1991) identified six primary business benefits from recruiting a diverse workforce:
  - o Cost benefits - employees who manage diversity well gain cost advantages over those who do a poor job and experience extra expenses from poor integration policies.
  - o Resource acquisition - employers adopting a diversity management approach will develop favourable reputations as prospective employers of women and ethnic minorities and so will attract the best personnel.
  - o Marketing - multi-national corporations will obtain insight and cultural sensitivity from having staff with roots in other countries, which will improve marketing.
  - o Creativity - the presence of diverse perspectives and less emphasis on conformity to past norms improves creativity.
  - o Problem solving - heterogeneous groups produce better decisions and problem solving through a wider range of perspectives.
  - o System flexibility - systems become less standardised and therefore more fluid, this creates more flexibility to react to changes in the business environment.

### **1.3. Forms of employment discrimination**

Discrimination in the labour market can take different forms and affect various groups (the empirical evidence is summarised in section 2.2). Two of the most important forms of labour market discrimination are wage discrimination (where an individual is paid less than another individual doing the same job) and employment discrimination (an individual has potentially the same level of productivity as those working at a job from which he or she is excluded).

A specific form of employment discrimination is occupational segregation, that is, when disadvantaged groups are restricted to some (typically low-income) occupations. Other forms, such as harassment of disadvantaged groups at the workplace has also been the subject of both scientific and public discourse (Raver and Nishii 2010).

Discrimination may occur directly or indirectly. Direct discrimination happens when someone receives worse treatment than another person because they (are perceived to) have a protected characteristic. Indirect discrimination occurs when a given rule has an indirect unfair effect on people who share a particular characteristic. For example, if a company excludes part-time workers from managerial promotions, women are indirectly discriminated against since they are often unable to work full-time due to family responsibilities. Actual instances of discrimination at the workplace may vary by subtlety, formality, and intentionality and these dimensions constitute a continuum between the extremes (Jones et al., 2017).

As for the potentially affected groups, the literature usually defines visible, and non-visible groups. The first includes women, older persons, persons with certain disabilities, youth, and (visible) ethnic minority groups, whereas the latter include religious minorities, persons with mental health conditions and certain disabilities, and LGBTIQ people. It is important to note that people who belong to more than one of the above groups may face multiple instances of visible and non-visible discrimination.

## 2. DISCRIMINATION IN THE RECRUITMENT PROCESS

As PES anti-discrimination policies may mostly target discrimination in the recruitment process, it is important to understand the ways in which, and the reasons why, discrimination may occur during the process. This chapter discusses the risks of discrimination at different stages of the recruitment process, then presents the relevant empirical evidence.

### 2.1. Discrimination at different stages of the recruitment process

PES may influence the recruitment process of employers in several ways. PES may screen job advertisements placed in their vacancy database for elements directly discriminating any group of workers. PES may also raise awareness and offer guidance to employers on how to avoid indirect discrimination, e.g. in the job descriptions or tests, and on avoiding unintended discrimination e.g. by using automated decisions in some stages of the selection process. As this section will show, there are several instances in the recruitment process where employers may (often unintentionally) discriminate, which underlines the need for a broad approach in anti-discrimination activities, going beyond the screening of job advertisements (a core activity of all PES, as we show in Chapter 3).

#### *Job description*

Job descriptions may – often unwittingly – involve indirect discrimination by excluding or discouraging certain disadvantaged groups from applying. Firstly, job advertisements may include requirements that are not strictly needed for the position, but as a result exclude some groups. For instance, strict working time arrangements may exclude mothers of young children, written proficiency in the local language may exclude some immigrant workers, whereas requirements for consecutive years of experience exclude people who had career breaks due to maternity or illness. While in some cases these characteristics are indeed necessary for the position, sometimes they are included in job requirements unconsciously due, for example, to existing custom and practice in the recruitment process.

Secondly, certain terms and phrases in a job description may discourage some groups from applying. For example, the phrase ‘young and dynamic environment’ is often used in job advertisements, potentially discouraging middle-aged or older applicants. Furthermore, some adjectives may be gender-biased due to existing stereotypes (e.g. conclusive, decisive, confident, honest, cooperative). Thirdly, biased job titles may also discourage certain, otherwise fitting applicants (e.g. the terms waiter, or waitress).

#### *Advertising the job*

The channels and ways by which jobs are advertised may also have discriminatory effects. For instance, informal, mouth-to-mouth advertising may exclude some disadvantaged groups. Disadvantaged groups can be excluded from groups of friends and acquaintances where such informal job information spreads. This practice reinforces and exacerbates existing disparities on the labour market. Another potential risk is that persons with certain disabilities are unable to access certain channels of information (e.g. visually impaired people cannot read job advertisements posted in shop windows), and that some disadvantaged jobseekers may lack the IT skills or access to IT, limiting their access to information on online social media.

*Screening and selection for interviews*

During the screening and selection phase, employers may discriminate based on characteristics that the CV directly or indirectly includes, and they can collect further information from the internet. This is the stage where discrimination is relatively easy to measure, and hence the focus of most field-experiment studies (see section 2.2). At this stage, selection on the basis of valid assumptions regarding correlations between observable characteristics and (unobservable) productivity may be a logical practice for employers, since they often have to select from a large number of candidates based on limited information. Unintended or prejudice-based discrimination may also occur through the subjective judgement of officers involved in the screening process (e.g. candidates with specific characteristics may be given lower scores on qualities assessed by the HR officer candidates – or vice versa).

*Interviews*

On the one hand, during interviews employers can also observe further characteristics that may constitute the basis of discrimination (e.g. some disabilities). On the other hand, they can also better estimate the productivity (motivation, skills, etc.) of the candidate. Statistical discrimination<sup>3</sup>, therefore, is less likely to occur at this stage, while potentially unconscious (or conscious) prejudices of the interviewer(s) constitute the main risk.

Some interview practices may increase the likelihood of discrimination. Firstly, the absence of a standardised interview structure may leave space for questions that are unrelated to the job but may lead to discrimination (e.g. about health condition, family status/plans). Secondly, if only one interviewer is present (instead of two or more), the process can be less transparent.

*Tests*

Tests may also discriminate against some groups. For instance, questions assuming knowledge of local history discriminate against foreign applicants, whereas questions assuming knowledge of the rules applying to a particular sport may be biased against a gender that is not well-represented in that sport. Also, some disadvantaged jobseekers or persons with disabilities may not have the skills or ability to complete the tests in the format provided by the employer.

*Preparing the job package*

The preparation of the job offer may also reflect and reinforce social injustices. Disadvantaged groups may be offered lower wages than other workers in a similar position (wage discrimination). Importantly, it may also be the case that disadvantaged applicants have lower wage expectations, hence wage discrimination can occur even if the applicant's expected wage level is met.

*Recruitment decision at the end of the probationary period*

Finally, discrimination may occur when employers make the final hiring decision at the end of the probationary period.

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<sup>3</sup> Statistical discrimination occurs when employers, lacking individual-specific information on the productivity of job candidates, consider group-specific (statistical) information in the selection process.

## 2.2. Empirical evidence on labour market discrimination

### *Discrimination by employers*

Discrimination by employers is by its nature difficult to measure. However, recently there has been substantial growth in experimental research (Neumark, 2018) using innovative methods such as laboratory experiments and field experiments. Correspondence tests<sup>4</sup> are a particularly prevalent type of experimental research on labour market discrimination. However, even these new methods have considerable limitations. While such studies are well suited to measure discrimination in the screening process, Zschirnt and Ruedin (2016) point out that correspondence tests are only suited for studying this particular phase of the recruitment process and for jobs that are advertised publicly and where written applications are the norm, hence they exclude many entry level and low-skilled occupations. It should also be noted that most of the studies covering EU countries focus on Western Europe.

Based on the available meta-analyses (Neumark, 2018; Zschirnt and Ruedin, 2016) and some more recent studies, the following key findings emerge:

- A substantial body of empirical evidence proves that discriminatory employment practices prevail all around the globe. 43 correspondence studies of ethnic discrimination conducted in OECD countries (published between 1990 and 2015) found that all but one study reported lower call back rates for minority applicants (Zschirnt and Ruedin, 2016)<sup>5</sup>. On average, minority applicants have 40% lower odds to be invited for a job interview than similar non-minority applicants. More recent studies – such as a cross-national study on ethnic discrimination<sup>6</sup> (Lancee, 2021) and a correspondence study conducted in Finland (Ahmad, 2020) have also confirmed the prevalence of labour market discrimination.
- Studies confirm the prevalence of discriminatory practices against various disadvantaged groups. A qualitative review of experimental research on labour market discrimination (Neumark, 2018) confirms the existence of discrimination against racial and ethnic minorities, ex-offenders, those with disabilities, LGBTIQ people, and older workers, as well as other subgroups. Evidence on gender discrimination based on the sources above is more mixed. For instance, a recent cross-national study on hiring discrimination<sup>7</sup> (Birkelund et al., 2021) found no evidence for gender-based discrimination.
- Most of the recent evidence focuses on discrimination in the hiring process, as this can be studied using reliable experimental methods (Neumark, 2018), including field or lab experiments. Most of field experiment studies are correspondence tests (where systematically constructed faked applications are sent to job post) that focus on screening and the selection of candidates for interviews. Audit test (where fake job interviews with actors) allow for measuring discrimination in interviews and hiring decisions as well (e.g. Bendick et al., 1999).
- Regarding different theories (sources) of discrimination, Zschirnt and Ruedin (2016) conclude that while taste-based discrimination<sup>8</sup> remains the dominant form, there is also some evidence for statistical discrimination. A recent study based on data

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<sup>4</sup> That is, pairs of fake profiles are created that differ in one specific group characteristic only (e.g. gender, race, etc.), and used for applications and for exchanging letters or emails with potential employers.

<sup>5</sup> Most studies included in this review were conducted in Western Europe (especially the Netherlands, Germany, France and Austria) and Anglo-Saxon OECD countries.

<sup>6</sup> Realised in the frame of 'The Growth, Equal Opportunities, Migration and Markets' (GEMM) H2020 project. The field-experiment was carried out in Germany, the Netherlands, Norway, Spain, and the United Kingdom.

<sup>7</sup> Based on data collected within the GEMM project (see footnote 6).

<sup>8</sup> Taste-based discrimination occurs when employers prefer not to employ certain groups compared to others that is not explained by any economic gain (see Thijssen (2016) for more detail).



from a cross-national field experiment, found little support for statistical discrimination against ethnic minorities (Thijssen et al., 2021).

- While direct comparison of one-country studies would yield unreliable results due to differences in measurement techniques, there seems to be significant cross-country and cross-group variation in employment discrimination. Indeed, recent studies confirmed significant cross-country variation regarding hiring discrimination against different ethnic groups (Di Stasio et al., 2021; Lancee, 2021).
- As for prevalence of employment discrimination against persons with disabilities people, four studies of correspondence tests in the US, France, Canada and Belgium (Ameri et al., 2018; Baert and De Pauw, 2014; Bellemare et al., 2017; Ravaud et al., 1992, respectively) have all reported significantly lower call-back rates by employers for persons with disabilities. Interestingly, Ravaud et al. (1992) found that the gap is larger among less qualified applicants, whereas Ameri et al. (2018) had the opposite result.

#### *Discrimination in public services*

Evidence about discrimination in public services is relatively scarce, and existing studies show mixed results. Some recent correspondence studies found that public services may discriminate against clients belonging to certain ethnic groups. Based on an experiment carried out in the Czech Republic, Mikula and Montag (2022) found that Roma clients were less likely to receive a response to an email message sent to the local job centre, asking for general information about claiming the unemployment benefit. Email messages worded in a way typical of low-qualified clients were also less likely to receive a response. In a similar experiment focusing on welfare offices in Germany, response rates did not differ significantly across ethnic groups, but clients with an immigrant background were more likely to receive lower quality responses (Hemker and Rink, 2017). Finally, a study using inquiries about municipal schools found no sign of discrimination against the applicants from the Arabic community in Sweden (Adman and Larsson Taghizadeh, 2020), while a very similar study showed significant discrimination by municipalities against the Roma in Hungary (Simonovits et al., 2021). These results suggest that discrimination by public services may vary across countries and may be more prevalent where formal and informal institutions to combat discrimination are less developed.

### 3. CURRENT PES PRACTICES FOR COMBATTING DISCRIMINATION

This chapter is based on a survey among PES in EU Member States, Iceland and Norway, conducted in cooperation with the European Network of Public Employment Services in May-July 2021. The findings are based on the responses of 22 PES operating in 21 countries (Austria, Belgium, Bulgaria, Croatia, Cyprus, Denmark, Estonia, France, Germany, Greece, Iceland, Ireland, Latvia, Lithuania, Malta, the Netherlands, Poland, Slovakia, Slovenia, Spain, and Sweden). In most of the analysis below, policies are divided into two groups, based on the overall effectiveness of government. As reliable evidence on the impact of anti-discrimination policies is scarce, we use this grouping to shed some light on which policies might be potentially effective. The grouping is based on the government effectiveness indicator of WGI for 2020<sup>9</sup>.

#### 3.1. Legal frameworks and PES mandates in anti-discrimination policy

The European Commission adopted two ground-breaking directives in 2000 banning various forms of discrimination. 'The Racial Equality Directive' requires Member States to prohibit certain forms of discrimination, namely direct and indirect discrimination, harassment and instructions to discriminate, on the grounds of racial or ethnic origin. It covers a wide range of areas: employment, self-employment and occupation, as well as vocational training, social protection including social security and healthcare, social advantages, education and access to, and supply of goods and services available to the public, including housing. 'The Employment Equality Directive' focuses on protection in employment and occupation as well as vocational training, and prohibits direct and indirect discrimination, as well as harassment and instructions to discriminate, on the grounds of 'religion or belief, disability, age or sexual orientation'<sup>10</sup>. The commitment to reduce discrimination has been reinforced in various documents (see Chapter 1.1).

Since then, all Member States have adapted the Racial Equality Directive and the Employment Equality Directive in their national legislation<sup>11</sup>. For a summary of key national anti-discrimination instruments see Annex 1.

PES have a key role to play to apply the EU directives and corresponding national laws, as their main role is to connect jobseekers with employers. Though their business share may vary across countries and sub-markets, in most countries PES are among the government bodies best placed to influence employers' behaviour. In the subsequent subchapters, based on an in-depth survey of PES, we examine the various ways in which PES can address labour discrimination.

Almost all PES participating in the survey indicated that the existing national legislation on discrimination is sufficiently concrete and gives them a sufficient mandate to combat discrimination. In most countries, the mandate of the PES is limited to its general role in supporting all groups of jobseekers and protecting their rights against labour market discrimination. However, a few PES also play some role in combatting discrimination at the workplace by cooperating with the relevant authorities, such as labour inspectorates or the judiciary (Estonia, Slovakia, Sweden and Slovenia, see also Box 8).

Survey respondents all indicated that PES have some role in supporting the labour market inclusion of jobseekers with disabilities. Most PES share this responsibility with other authorities, such as municipalities, the ministry for labour, the central rehabilitation agency

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<sup>9</sup> The indicator reflects perceptions of the quality of public services, the quality of the civil service and the degree of its independence from political pressures, the quality of policy formulation and implementation, and the credibility of the government's commitment to such policies. It is an element of the World Governance Index (WGI) system (<https://databank.worldbank.org/source/worldwide-governance-indicators>).

<sup>10</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32000L0078&from=EN>

<sup>11</sup> As concluded by European Commission (2014).

or the disability insurance agency. Some PES are solely responsible for this task (see further detail in Chapter 8)<sup>12</sup>.

### 3.2. PES approaches for combatting discrimination

The majority of PES refer to discrimination in their strategies, at least indirectly, by defining objectives concerning the labour market inclusion of specific discriminated groups or vulnerable jobseekers in general (Table 2). It should be noted that PES usually design the targeting of their policies in terms of their general mandate to support job search and tackle labour market disadvantages. This means that they may not necessarily have specific policies for each target group defined by anti-discrimination legislation, or they may have a set of services that are available to all disadvantaged clients, and can be used according to their individual needs. Also, some PES have developed measures to reduce discrimination against target groups not explicitly mentioned in existing legislation, such as the long-term unemployed.

Only half of the responding PES set targets related to discrimination. Most of these targets concern vulnerable groups in general, or a few specific target groups (in most cases, persons with disabilities). A handful of PES have targets focusing on explicitly promoting diversity to employers (NL, BE-Actiris) or within the PES organisation (FR) (see Box 1 for more detail on the strategy of Actiris).

**Table 2. Approach to discrimination by PES**

	Higher government effectiveness* (N=12)	Lower government effectiveness (N=10)	All (N=22)	Share, %
<b>A) PES strategy</b>				
<b>Discrimination is not included in PES strategy</b>	DK, EE	HR, LV, MT, PL	6	27
<b>Included but with no concrete targets</b>	NL, SI	BG, ES, LT	5	23
<b>Included, with concrete targets</b>	AT, BE-ACTIRIS, BE-VDAB, DE, FR, IE, IS, SE	CY, EL SK	11	50
<b>B) PES code of practice</b>				
<b>National ADR* and legislation apply to PES practices but not explicitly integrated into internal rules</b>	DK, EE, IS, SE	CY, MT, PL, SK	8	36
<b>National ADR* are explicitly mentioned in the general code of practice of the PES, but no measures are specified</b>	SE	EL, ES, LT	4	18
<b>PES code of practice or protocols specify detailed ADR and these are usually applied in practice</b>	AT, BE-ACTIRIS, DE, FR, NL	HR, LV	7	32
<b>No explicit approach or no answer provided</b>	BE-VDAB, IE	BG	3	14

<sup>12</sup> In the survey, four PES (Denmark, Latvia, Estonia, Malta) indicated this, while in some other cases this was deduced from the detailed answer on which other authorities are involved in the task.

	Higher government effectiveness* (N=12)	Lower government effectiveness (N=10)	All (N=22)	Share, %
<b>C) Internal definition of discrimination</b>				
<b>PES do not have an internal definition for discrimination</b>	DK, FR, IE, IS, SI	CY, EL, ES, HR, LT, LV, MT, SK	13	59
<b>PES have an internal definition</b>	AT, BE-ACTIRIS, BE-VDAB, DE, EE, NL, SE	BG, PL	9	41
<b>D) Discriminated groups</b>				
<b>PES do not identify specific groups at risk of discrimination</b>	BE-VDAB, DK, EE, FR, IE, NL	ES, HR, LT, LV, MT, PL	12	<b>55</b>
<b>PES identify specific risk groups</b>	AT, BE-ACTIRIS, DE, IS, SE, SI	BG, CY, EL, SK	10	45

Source: PES Network Survey on discrimination (2021). N=22 Note: ADR= anti-discrimination rules.

Scores regarding higher or lower government effectiveness in a country are based on the World Governance Index (WGI), see footnote 8.

Most responding PES apply national antidiscrimination legislation in their own internal practices either implicitly (through their general obligation as any government body) or explicitly referring to the relevant legislation in their internal code of practice. In some, mostly PES in high government-effectiveness countries<sup>13</sup>, the internal code of practice or protocols specify detailed anti-discrimination rules and these are usually applied in practice (Table 2).

PES strategies and related protocols may refer to all three spheres of potential discrimination: by the PES as employer, by PES staff, and by employers (see Box 1 for an example). PES practices regarding their own HR management are summarised in the next section, while policies to tackle discrimination affecting jobseekers are described in the subsequent sections.

PES that formally include equal opportunities in their internal rules of operation also tend to set concrete targets in their strategy and have more elaborate tools in their internal procedures for tackling discrimination. For example, all the four PES that have such a formalised approach (FR, BE-Actiris, DE, AT) employ an officer responsible for the equal treatment (usually with a general mandate, i.e. one person covering all protected categories). It should be noted that these institutional indicators may not fully capture the actual commitment of the PES. For example, in highly decentralised PES the rules of operation are usually defined locally, while in some other PES these rules are defined centrally by the ministry supervising the PES.

### **Box 1. Discrimination is given high priority in the PES strategy: example of Actiris**

Actiris (the Public Employment Service of Brussels, Belgium) has an elaborate strategy for combatting labour market discrimination, both as an employer and in implementing PES services and measures. As a regional public body, Actiris is required to develop a diversity plan, and Actiris aims to be a model for other organisations. The plan covers policies concerning their own staff as well as their clients. Equal opportunities and the diversity policy are included in the strategic and operational objectives of their Management Contract for 2017-2022.

The national diversity policy outlines five objectives: (1) ensure that women have access to management positions, (2) promote diversity within PES staff, promote the labour market integration of (3) youth, (4) jobseekers with disabilities and (5) jobseekers aged over 55. The Actiris management contract includes a commitment to ensure equal access to support services to all clients and several other strategic objectives indirectly related to the fight against discrimination.

<sup>13</sup> The grouping is based on the government effectiveness indicator of WGI for 2020. See more detail in footnote 8.

Actiris has a full time Diversity Manager, supported by a Diversity Commission composed of staff members. Together, they draw up an internal diversity plan every two years, with concrete actions to promote diversity and fight against prejudice and discrimination.

As an employer, Actiris implements several measures to hire youth and jobseekers with disabilities. This includes an annual 'DUOday', when Actiris opens their doors to jobseekers with a disability who are personally guided around by a staff member. They have set a target that 2% of their staff should be composed of persons with a disability. Actiris uses the 'Contrat-Tremplin' scheme to hire disadvantaged school leavers and support them in gaining work experience.

Actiris has also developed an anti-discrimination guideline for their staff, they have regular diversity training, and they ensure physical and digital accessibility to their employees.

As a service provider Actiris has identified specific risk groups, based on empirical research, reports of equity bodies and other sources. These include low-skilled women of foreign origin (especially care workers), Afro-descendants with high qualifications, young people of foreign origin with low qualifications (NEET), women of foreign origin who display their religious beliefs, people living with a disability, recent immigrants, people aged over 57 and LGBTQI+ people.

Source: PES Network survey.

Some responding PES have their own internal definition of discrimination: these are typically, though not always, PES from countries with highly-effective governments (see Box 2 below). About the same proportion of PES define specific groups at risk of discrimination; this is more common among PES that are operating within a highly effective government. Specific groups are in most cases defined on the basis of national anti-discrimination rules, e.g. persons with disabilities.

### **Box 2. The internal working definition of discrimination of ACTIRIS**

Actiris uses the following internal working definition of discrimination based on that developed by Unia (the Interfederal Institute for Equal Opportunities).

Direct discrimination in the labour market occurs when a person is at a disadvantage, on the basis of a protected criterion (1), compared to another person who is in a similar situation and if this difference in treatment cannot be reasonably and objectively justified by an employer.

Example of direct discrimination: Refusal to employ a person of 'Turkish origin'.

Indirect discrimination occurs when an apparently neutral measure affects particular groups.

Example of indirect discrimination: Using 'Dutch mother tongue' as a selection criterion, as this condition discriminates against people who do not have Dutch as their mother tongue.

Protected criteria in the anti-discrimination legislation: 'alleged race', skin colour, nationality, origin, national or ethnic descent, disability, religious or philosophical beliefs, sexual orientation, age, gender, sexual orientation, age of consent, wealth (or financial means), marital status, political beliefs, trade union, health, physical or genetic characteristics, birth, social origin, sex (and similar: pregnancy, childbirth, maternity, identity, etc.), childbirth, maternity, gender identity, gender expression and gender reassignment, and language.

### **3.3. PES practices to promote diversity in their own HR policies**

As public bodies, PES as employers must keep to the national regulations regarding the prohibition of labour market discrimination. Accordingly, in the PES Network survey most PES reported of having a general commitment (laid down in national legislation, ministerial decrees or the national diversity charter) to ensure equal opportunities to all in their hiring process and human resources management. However, PES can go beyond complying with legal obligations and actively promote diversity. This may be beneficial for improving services for clients belonging to vulnerable groups, serve as an inspiration for other employers, and provides the PES in-depth experience of the potential pitfalls and benefits of diversity policies, which they can build on when counselling other employers. In the PES Network survey, seven of the responding PES have indicated having a proactive and elaborate diversity strategy guiding their HR policy for all (BE-Actiris, BE-VDAB, DE, FR, IE, and NL) or some discriminated groups (AT for women). The example of the PES of Brussels (Actiris) is included in Box 1 above, while Box 3 below outlines the approach of the German PES.

### Box 3. Diversity management in Germany

The Bundesagentur für Arbeit (BA, the German PES) introduced systematic diversity management about 15 years ago, as part of its life-phase-oriented human resources policy. The focus is on six fields of action: work-life balance, gender equality, age and generations, persons with disabilities people, cultural diversity and sexual identity. The promotion of diversity, equal opportunities and equality is a business policy objective with a view to customer orientation on the labour market (e.g. via employing counsellors belonging to a minority group) and also the promotion of attractive working conditions for employees as an employer.

Some of the key activities in diversity management in recent years included (listed as a best practice in the [Diversity Charter](#) initiative):

- Raising awareness and informing employees about 'unconscious prejudices': Employees and managers are supported in becoming aware of their own prejudices and how to deal with them with the help of internal media, tools and training.
- To find out the extent to which diversity and equal opportunities are practiced at the BA from the employees' point of view and where there is potential for improvement, a short survey has been conducted at regular intervals since 2007 (Barometer Diversity and Inclusion, most recently in 2020).
- Diversity and gender check for organisational changes with personnel effects: This tool, introduced in 2016 and updated in 2021, supports those responsible for change projects to systematically include diversity aspects in the planning and considerations of change projects at an early stage.
- To implement the UN Convention on the Rights of People with Disabilities, BA has developed [an action plan](#) in a participatory manner and published it on the internet.
- All employees of BA are sensitised on disability issues through an interactive workshop imparting knowledge, reducing insecurities and making people aware of mental drawers.

Source: PES Network survey. Further information on the BA's diversity management is available (in German) at: [https://www.arbeitsagentur.de/datei/diversity-management\\_ba016768.pdf](https://www.arbeitsagentur.de/datei/diversity-management_ba016768.pdf)

### 3.4. Most common PES policies for tackling discrimination

All PES deploy a fairly broad range of tools against discrimination, including supply and demand side measures as well as safeguards in their internal processes (Table 3)<sup>14</sup>. The most used measures also take a variety of forms: some are regulative, some are financial, and others are organisational. On the demand side, almost all PES adjust job advertisements with discriminatory elements and use financial incentives to encourage the recruitment of specific groups. Many PES also actively engage in raising employers' awareness of discrimination and diversity. These policies are typically applied to people from all groups deemed to potentially be at risk of encountering labour market disadvantage, except for financial incentives, which many PES target specifically to jobseekers with a disability (see section 4.7 for more detail).

Regarding internal procedures, almost all PES aim to ensure equal access to their premises and information (e.g. their website), and most PES make some effort to ensure that counsellors observe the principle of equal access. This may take the form of discussing the importance (and tools) of equal access and equal opportunities in PES counsellors' protocol, and/or including this in the initial training of counsellors. These practices are applied to all groups covered by anti-discrimination legislation. Only three respondent PES do not use either of these tools<sup>15</sup>.

Supply side measures are less widespread among the responding PES. Nevertheless, more than half use some supply side incentives (see Box 4 for an example from Austria) and/or mentoring, and some employ dedicated staff to work with specific groups of clients, e.g. migrants, young people, or clients with disabilities. For example, more than half of

<sup>14</sup> The categorisation of PES policies used throughout the report is detailed in Annex 2.

<sup>15</sup> Including DK, MT and SK. In Denmark, this may be due to the decentralised operation of PES.

responding PES offer mentoring to disadvantaged jobseekers, which helps to sustain their motivation during job-search or ALMP participation, and may also compensate for their weaker networks, as shown in a pilot project for refugees co-funded by Actiris, Belgium (Box 4).

**Table 3. Number of PES using particular tools against discrimination**

Tool	Description	Policy tool	Higher gov. effectiveness (n=12)	Lower gov. effectiveness (n=10)	All (n=22)	%
<b>Demand side</b>						
<b>Checking of job ads</b>	PES systematically checks job ads and removes discriminatory elements.	Regulation and monitoring	12	9	21	95
<b>Financial incentives for hiring</b>	PES provides subsidy on wages, training, or internship.	Financial tools	10	7	17	77
<b>Awareness raising for employers</b>	PES promotes diversity or provides information on costs or forms of discrimination, facts about minorities, etc.	Information provision	9	6	15	68
<b>Internal procedures</b>						
<b>PES premises and information</b>	Removing physical barriers (e.g. ramps for wheelchairs), language or other barriers for clients to access PES services and website.	Information provision	11	9	20	91
<b>PES counsellors' protocol</b>	PES counsellors are guided by a protocol that mentions an obligation to ensure equal access to minorities.	Organisational	11	7	18	82
<b>PES counsellors initial training</b>	PES counsellors are trained on the importance and tools of granting equal access to minorities.	Organisational	10	7	17	77
<b>Reports of discrimination are examined by an independent body</b>	An independent body may be less biased and more rigorous than an internal expert.	Regulation and monitoring	8	5	13	59
<b>Supply side</b>						
<b>Dedicated staff support to minorities</b>	PES staff includes counsellors specialised on particular minority groups.	Service provision	9	5	14	64

Tool	Description	Policy tool	Higher gov. effectiveness (n=12)	Lower gov. effectiveness (n=10)	All (n=22)	%
<b>Incentives for people at risk of discrimination</b>	Any financial or other incentive that encourages minorities to enter ALMP or use services	Financial tools	9	5	14	64
<b>Mentoring offered to all in need</b>	Mentoring to build and sustain motivation and psychological support during job search/ ALMP participation.	Service provision	8	6	14	64

Source: PES Network Survey on discrimination (2021). N=22. Country-specific information is shown in Table 1.

Most PES that offer mentoring or employ dedicated staff to support discriminated groups make this available to all groups with protected characteristics, or more generally to all vulnerable jobseekers, though some PES specifically target these services to jobseekers with disabilities (see section 4.7). Financial and other incentives to motivate are in most cases targeted specifically at jobseekers with a disability, though some PES reported offering these to all vulnerable groups (BG, AT, BE-Actiris, SI) or to additionally target some other groups encountering discrimination not falling under protected characteristics (IE: refugees; SK: youth and older workers). Box 5 below describes an interesting example from Austria of a comprehensive package to encourage women to train in traditionally male vocations.

#### **Box 4. DUO for a JOB initiative co-funded by ACTIRIS, Belgium**

The DUO for a JOB programme provides mentoring for young, immigrant jobseekers in Belgium's Brussels region. The project connects unemployed people with senior (50+ years old) mentors of native origin to help them in their job search. Young immigrants face significant barriers in their labour market integration, as they lack social networks, and often face discrimination.

The project was launched in 2014 by DUO for a JOB, a non-profit organisation, as a pilot funded by a 3-year Social Impact Bond. Actiris (the Brussels PES) co-financed the scheme along with private investors.

Several activities were carried out in the frame of the project: firstly, mentors and mentees were recruited, the mentors were trained in coaching, then, young immigrant applicants were connected with senior, experienced, native mentors. During the 6-month mentorship, seniors helped jobseekers gain more insights into the job market and find a job. They supported and guided them during the job search process by helping them elaborate their CVs, preparing them for interviews and helping them expand their social networks by connecting them to new people in their field of interest.

According to DUO's evaluation, the project was successful and effective. 322 young migrants had the opportunity to participate in the mentoring scheme. The assessment showed that the employment rate of DUO participants was 28% higher than that of those without mentorship.

Source: <https://koisinvest.com/project/duo-for-a-job-the-first-sib-in-continental-europe/>

#### **Box 5. Promoting women to be trained in trade and technology in Austria**

AMS, the Austrian PES runs a project in Upper-Austria supporting women gaining skills in trade and technology (FIT), which are traditionally dominated by men. The training is provided by training centres and educational institutions, while the PES provides promotional materials to promote to women of the advantages of a technical job, detailed information to support their decision (such as a [salary calculator](#) to show their potential gain from moving to a new occupation or career orientation courses on the content of FIT professions), internship and apprenticeship opportunities, learning assistance, and advice on the compatibility of work and family. Financial



allowances are also available to cover course fees and living expenses (unemployment benefit, training allowance, childcare allowance) during the training.

Source: PES Network survey.

### 3.5. Policies common in PES with higher government effectiveness scores

Some policies are significantly more widespread among PES in countries with relatively high government effectiveness scores<sup>16</sup>. There are two countries (AT and SE) where almost all of these policies are in place. These include (1) elaborate provisions for monitoring or reporting discrimination and handling complaints, (2) mentors belonging to minority groups and adequate income support for vulnerable jobseekers during ALMP participation, and (3) specialised employer counselling on anti-discrimination policies and tools, (Table 4). These policies tend to presuppose a fairly high level of organisational development, expertise and resources, though they may take fairly simple forms (Box 6). In particular, the provision of counselling for employers is relatively costly and takes more effort to implement (see example below in Box 7).

Supply side measures (proactively hiring PES counsellors belonging to a minority group, providing income support during ALMP participation) seem highly important for compensating the initial disadvantages of jobseekers at risk of discrimination because of their weaker networks and information processing skills, and also for reducing the risk of discrimination by PES counsellors. Training programmes can make up for this or at least reduce their disadvantage, but they often need additional incentives to enter and complete suitable training programmes. The need for additional incentives may flow from their social status (low incomes and short planning horizons) and from previous experiences of failing in school, which may lower their self-esteem and motivation. The need for additional income support by the PES may be especially important in countries where social benefits available to the long-term unemployed are of a low level.

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<sup>16</sup> We use an indicator of government effectiveness to distinguish PES in countries with higher or lower government effectiveness scores (see footnote 8).

**Table 4. Number of PES (with higher and lower government effectiveness according to the WGI indicator) using particular tools against discrimination**

Tool	Description	Policy tool	Target sphere	Higher gov. eff. (n=12)	Lower gov. eff. (n=10)	All	Share, %
<b>Facility to report discrimination anonymously</b>	A reporting facility may pre-empt or expose discriminatory practices.	Regulation and monitoring	Internal	7	4	11	50
<b>PES has protocol for reporting discrimination</b>	Helps by discouraging and exposing discrimination.	Regulation and monitoring	Internal	6	3	9	41
<b>Quotas/target indicators for the participation of vulnerable groups</b>	Can support more equal access in ALMP	Service provision	Internal	7	4	11	50
<b>Counselling employers on other anti-discrimination tools</b>	Counselling on tools other than anonymous recruitment.	Service provision	Demand side	7	2	9	41
<b>PES employs counsellors or mentors from minority group</b>	To improve outreach and build trust.	Service provision	Supply side	7	4	11	50
<b>Adequate income support provided during training/ALMP</b>	Disadvantaged jobseekers often cannot afford long programmes or optimise on a short time horizon.	Financial tools	Supply side	6	3	9	41

Source: PES Network Survey on discrimination (2021)

Note: Country-specific information is shown in the Ex. Summary, in Table 1.

### **Box 6. PES tools for monitoring and penalising discrimination of jobseekers by PES staff**

Some PES have a formal procedure to tackle discrimination within the PES organisation. Though such cases may not occur frequently, formal procedures may nevertheless be important as they have a preventive effect and increase trust in the PES.

In Slovenia, discrimination of jobseekers by PES staff can be reported in a book of complaints at every local office (anonymously), sent via email or by phone to the ESS Contact centre, or reported in the annual customer satisfaction survey. Each complaint is reviewed by the head of the relevant local office. Heads of local offices are also responsible for regular monitoring (monthly) of the records of jobseekers, monitoring of key procedures, basic activities and supporting procedures. Potential discrimination or irregularities might be captured this way.

The Dutch PES focuses on prevention and inclusivity. Nevertheless, discrimination of anyone (including jobseekers) may lead to a formal warning, and three formal warnings may lead to dismissal. This will be mentioned in the annual report of the employee.

In Sweden, reported staff may end up in the Board for Personnel Responsibility and penalised accordingly. Occasionally independent studies are made of discrimination of jobseekers by PES staff, and there is a continuous dialogue and regular staff training on awareness raising.

Source: PES Network survey

### Box 7. Diversity counselling for employers in Brussels

In the Brussels region of Belgium, the regional government promotes diversity policies both in the private and the public sector, which greatly supports collaboration between unions and employers' organisations. Actiris (PES for Brussels) uses three tools to raise awareness among employers: (1) the [diversity charter](#) is a first step, which can be signed to show commitment to implementing diversity policies, (2) practical support in developing and evaluating the implementation of a [diversity plan](#), and (3) the [diversity label](#) to reward good practices in promoting diversity in the workplace. These tools concern discrimination in general, i.e. not limited to particular groups of jobseekers.

Actiris has developed [three options](#) that employers may follow as the basis for developing their diversity plan.

- The mini-plan can be used as a first step, or by organisations of fewer than 50 employees, which focuses on one element of diversity management, for example tackling prejudice against people of different origins, intergenerational collaboration, or the recruitment and inclusion of a person with a disability.
- The global plan includes the comprehensive analysis of diversity issues in the company, and the planning of structural and sustainable actions in four areas of intervention: recruitment, personnel policy, internal communication and external positioning.
- The thematic plan allows for more in-depth and innovative work for firms that already have a global plan and can propose solutions and actions for specific challenges. Usually, it focuses on a particular target group. The employer is expected to set up a diversity working group and Actiris provides a diversity consultant (free of charge) to advise them throughout the planning and implementation and may also provide some co-funding.

Actiris also implements awareness raising activities and discussions to identify and share good practices, often in cooperation with Unia, the federal equality body. For example, they organise an annual [diversity forum](#) to showcase employers' good practices in promoting diversity and discuss innovations and challenges.

Source: PES Network Survey.

### 3.6. Less commonly used PES policies

There are several policy tools that are potentially effective but relatively less commonly used by PES and/or where there is no apparent pattern in the spread of usage across PES with different government-effectiveness levels, based on the WGI governance index (Table 5). Most of these policies are relatively costly or require a comparatively high level of organisational development.

Considering supply side policies, the less common ones include specific outreach activities proactively engaging communities or groups that may need additional encouragement to visit the PES, such as youth, mothers with small children or persons with disabilities.

Regarding internal organisational procedures, few PES reported employing an equalities officer. This tool is mainly used by PES operating in the context of a highly efficient government.

Lastly, some types of demand side policies are used by very few PES. These concern regulatory measures to check and eliminate discriminatory practices (or lack of efforts to ensure equality of opportunity) by employers using their services and counselling on anonymous recruitment<sup>17</sup>. The regulatory measures may require a legal mandate that most

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<sup>17</sup> Anonymous recruitment involves removing the candidate's name and other details (e.g. age, nationality, address or location) from their CVs that are not necessary for assessing their skills. Interestingly, a study examining the effects of anonymous recruitment (carried out in France) (Behaghel et al., 2015) found that while - in line with expectations - women benefit from higher call back rates when names are hidden, firms are less likely to interview and hire minority applicants when resumé are anonymized. This counter-intuitive finding may in part be explained by the fact that firms applied voluntarily for the experiment (self-selection).

PES lack, which may explain why these are less commonly used. Some PES may also see these tools as conflicting with their primary mandate to facilitate job matching and support employers and jobseekers along the hiring process. However, PES may use soft measures that are within their remit, such as barring access to employer services and subsidies for some time, as for example the Slovenian PES does (see Box 8). As regards employer counselling, this may be related to the lack of specialised expertise or the lack of openness on the part of employers.

**Table 5. Number of PES using particular tools against discrimination (continued)**

Tool	Description	Policy tool	Target sphere	Higher gov. eff. (n=12)	Lower gov. eff. (n=10)	All (n=22)	Share, %
<b>PES employs officer responsible for equal treatment of minorities</b>	Ensures independent representation of rights of minorities.	Organisational and institutional	Internal	6	1	7	32
<b>Penalising discriminatory employers</b>	Acts as a financial disincentive.	Regulation and monitoring	Demand side	5	2	7	32
<b>Anonymous recruitment is actively promoted to employers</b>	Can pre-empt unconscious discrimination at the screening stage.	Information provision	Demand side	2	3	5	23
<b>Checking if employer complies with obligation to have an equality plan</b>	Supports awareness of discrimination.	Regulation and monitoring	Demand side	1	2	3	14
<b>Outreach activities directly engaging the minority community</b>	Minority communities are often hard to reach by traditional means.	Service provision	Supply side	5	3	8	36

Source: PES Network Survey on discrimination (2021) N=22.

Note: Country-specific information is shown in Table 1.

### **Box 8. Detecting and sanctioning employer discrimination in Slovenia**

The Slovenian PES cooperates with the tax authority and the labour inspectorate to identify employers who discriminate their employees or job candidates. Their cooperation is based on *the Labour market regulation act*<sup>18</sup> which allows the PES to exclude from their matching service employers that fail 'to pay wages or contributions for social security to workers, dismissing them from employment contrary to the applicable regulations or in some other manner severely breaches the workers' labour rights'.

The PES maintains a register of employers with negative references, including firms where the Labour Inspectorate established violations of the labour law, or the tax authority imposed a penalty

<sup>18</sup> Cf Article 27 of the Law on Labour Market Regulation (Official Gazette, 80/2010). <https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/89477/102807/F-392019526/Labour%20Market%20Regulation.pdf>.

for undeclared work or recorded missing tax reports or missing the payment of wages or social security contributions. Employers remain on the list for 6 months (in case they were fined for some violation) or until their debt to the authorities is paid. The register is publicly available on the PES website and searchable by all, jobseekers, authorities and firms. The register is integrated into the PES IT system. When screening vacancies before publication, there is an automated check if the employer has negative references. A similar check is completed for ALMP applications and counsellors get a red alert for firms on the negative list. In such cases, PES staff decides if the offence warrants sanctions on their part. For example, in the case of employers with whom PES have good cooperation, and where there are no complaints of violations, the PES can make an exception.

The PES must take action if they notice something irregular or have feedback from jobseekers on the misconduct of an employer. They report this to the tax authority (if the case concerns tax or social security contributions or undeclared work) or the Labour Inspectorate (if it concerns labour law violations, health and safety at work or discrimination). As all public bodies have the same obligation, employers do not know which person or organisation reported their misconduct, so there is no direct backlash to the relationship between PES and the employers. Most reports are made directly by the affected person to the relevant authority. The PES also checks all job advertisements placed in their vacancy database before they are published: in these cases, if they find something inappropriate, such as a discriminatory requirement, they first notify the employer, and only take further action if the employer fails to correct the advertisement.

The list of employers with negative references was established in 2011, to tackle the increase in misconduct by employers during the financial crisis that started in 2008, which put a strain in the liquidity and profitability of many firms. The PES initiated the setup of the new system as they needed to ensure that jobseekers continue to trust them, and their rights are protected against employers breaching the employment contract. The rules were set up in cooperation with the Ministry of Labour, family, social affairs and equal opportunities, the Labour Inspectorate and tax authority. The system is considered a success by the PES. Currently, the share of reported vacancies excluded from publication in the PES database is around 0.3%. Complaints regarding referrals to problematic employers dropped since the introduction of this system, it is likely however that the upsurge in economic growth has also contributed to this improvement.

Source: Interview with Sandi Meke, Head of ESS Employers' department, Slovenia.

### **3.7. PES approaches to serving jobseekers with disabilities**

The employment gap of persons with disabilities is determined by the interplay of several policies from inclusive public education through anti-discrimination legislation, the level and accessibility of disability benefits to employment services, etc. (European Commission, 2016). An earlier review of national approaches in EU Member States concluded that few EU countries had a comprehensive system of prevention and rehabilitation measures and that, with few exceptions, rehabilitation services remained underdeveloped, underfunded or underused (European Commission, 2013). More recent reports do not provide a complete update on the current policy framework in Member States; however, policy documents acknowledge the need for further strengthening disability policies. This is also underpinned by the evaluation of the European Disability Strategy 2010-2020, which notes that the employment gap of persons with disabilities decreased only slightly since the launch of the previous strategy, from 26 percentage points in 2010 to 24.2 percentage points in 2018 (European Commission, 2020).

The PES plays a central role in supporting the labour market integration of persons with disabilities in all EU Member States (Eurofound, 2021). In several countries, this responsibility is shared with other government agencies. The 21 PES participating in the PES Network survey also reported to have a significant role in supporting the labour market inclusion of jobseekers with disabilities, in most cases shared with other authorities, such as municipalities, the ministry for labour, the central rehabilitation agency or the disability insurance agency.

Reinforcing the findings of earlier studies commissioned by the PES Network (European Commission 2013, 2016) PES vary in their general approach to providing services for

persons with disabilities (Table 6). The most common standard solution is to have specialised caseworkers who refer jobseekers with disabilities to external providers: this is used by 9 PES (see example of the Irish PES in Box 9)<sup>19</sup>. In some cases (BE-ACTIRIS, DE, HR, IS, MT, and SE, see Box 11), the PES have a dedicated unit that provides most such services in-house. In a few countries (AT and EE), these two approaches are combined.

**Table 6. Approach to providing specialised services, share of PES**

	Higher gov. effectiveness (N=12)	Lower gov. Effectiveness (N=10)	All (N=22)	Share, %
<b>There are specialised counsellors who refer jobseekers with disabilities to external service providers</b>	DK, FR, NL, SI, IE	BG, ES, LT, SK	9	36
<b>There is a dedicated unit within the PES that provides specialised services to jobseekers with disabilities</b>	BE-ACTIRIS, DE, IS, SE	HR, MT	6	27
<b>Separate unit combined with subcontracting</b>	AT, EE		2	9
<b>There are specialised counsellors but the range of services specifically designed for jobseekers with disabilities is very limited</b>		CY, EL, LV	3	14
<b>There are no special arrangements for jobseekers with disabilities</b>		PL	1	5
<b>Not specified</b>	BE-VDAB		1	5

Source: PES Network Survey on discrimination (2021).

The support to jobseekers with disabilities may include standard tools of the PES that are also available to other jobseekers, as well as measures that are specifically developed to meet the needs of jobseekers with disabilities.

On average, PES in countries scoring high on government effectiveness reported to use more of their standard ALMP and services (listed in Table 1, and Tables 3 to 5) as a tool to reduce discrimination against jobseekers with disabilities, while other PES tended to report either to offer these to all discriminated groups (or not to use them at all, see Appendix 2 for more detail). The PES survey indicated that internal PES practices (such as protocols, diversity training, facilities to report discrimination) and most demand side measures (awareness raising, counselling and sanctioning of employers, checking job advertisements), are applied to all discriminated groups. There are four policies in the standard PES toolbox that are often used to tackle discrimination against jobseekers with disabilities (but not for other discriminated groups) (Table 7). By far the most commonly used of these tools is wage subsidies<sup>20</sup>.

<sup>19</sup> These include BG, DK, ES, FR, IE, LT, NL, SI, and SK. Countries that have specialised counsellors but a limited range of services for jobseekers include CY, EL and LV. Poland has not special arrangements for jobseekers with disabilities, and BE-VDAB did not specify their approach.

<sup>20</sup> Here we report cases where wage subsidies are not available to all disadvantaged groups, but only particular subgroups within, such as jobseekers with disabilities.

**Table 7. Policies that several PES target specifically at jobseekers with disabilities, number of PES**

Policy	Various vulnerable groups (no specific targeting)	Only jobseekers with disabilities
<b>Financial incentives for employers to hire discriminated groups</b>	8	8 (BG, CY, EE, FR, IE, IS, NL, SK)
<b>Incentives (financial or other) for people at risk of discrimination</b>	4	3 (EE, FR, DK)
<b>Target indicators for the participation of vulnerable groups (for PES services)</b>	1	3 (FR, NL, SI)
<b>PES have dedicated staff to support vulnerable groups</b>	1	3 (FR, IE DK)

Source: PES Network Survey on discrimination (2021).

Most PES also use further measures that are specifically designed to meet the special needs of jobseekers with disabilities. Demand side measures are common in all PES, regardless of the level of government effectiveness of their country (Table 8). These aim at reducing the initial costs of hiring a jobseeker with a disability, and by supporting workplace adaptation, also contribute to narrowing a (possible) productivity gap between workers with a disability and other employees. Financial support for workplace adaptation may cover a broad range of potential costs, from changes in the physical infrastructure to sensitising co-workers (see an Irish example in Box 10).

**Table 8. Number of PES applying policies specifically tailored to jobseekers with disabilities**

	Higher gov. effectiveness (n=12)	Lower gov. effectiveness (n=10)	All (n=22)	Share, %
<b>Advice on workplace adaptation</b>	11	8	19	86
<b>Financial support for workplace adaptation</b>	9	9	18	82
<b>Subsidy for personal assistance in commuting to work or performing work</b>	8	5	13	59
<b>Supply side</b>				
<b>Ability testing</b>	7	3	10	45
<b>Vocational rehabilitation</b>	8	4	12	55
<b>Job preparation, job trials</b>	9	5	14	64
<b>Job coaching</b>	7	5	12	55
<b>Follow-up support</b>	7	5	12	55
<b>Other supply side tools</b>	5	5	10	45

Source: PES Network Survey on discrimination (2021). \* In Sweden the PES also cooperates with special needs upper secondary schools to support students with special needs in connection to their school leaving.

### Box 9. Irish Disability Awareness Support Scheme

The Irish PES manages a support scheme that provides a maximum of €20,000 funding for private sector employers to arrange and pay for disability awareness training for their staff who work with a colleague who has a disability. The training is expected to:

- provide clear and accurate information to employers and employees about working with persons with disabilities
- be aimed at providing those taking part with an understanding and awareness of the issues surrounding disability
- include an overview of relevant anti-discrimination and equal opportunities legislation.

Source: <https://www.gov.ie/en/service/3970b5-disability-awareness-support-scheme/>

Concerning supply side policies, three of these are fairly commonly used by all PES, regardless of their country's score on governmental effectiveness: job preparation and trials, vocational rehabilitation and job-coaching. Follow-up support (after placement) is provided by only half of the respondents, while ability testing is slightly less common. The boxes below present examples of providing such services in-house (in Sweden) or via external providers (in Ireland).

### Box 10. Disability services in the Swedish PES

The Swedish PES (Arbetsförmedlingen) have a strategy to prioritise the most vulnerable jobseekers and offer comprehensive services for persons with disabilities.

The PES define disability on the basis of a medical certificate issued by a public authority. They assess whether the disability also entails a reduced ability to work, considering opportunities and limitations within various tasks and work environments.

This assessment is undertaken as early as possible so that PES support and individual adaptation can be effective and the path to work can be shortened. The focus within work-oriented rehabilitation is on job placement and on ALMP, to support active and systematic job search and placement. The PES also aim to identify jobseekers who risk long periods without work and offer support as early as possible, in order to prevent long-term unemployment.

Beside ability testing and vocational rehabilitation, the PES provides mentoring, job preparation, job trials, job coaching and follow-up support. It also collaborates with special needs upper secondary schools to give support to students with special needs in connection to their school leaving, including early exits (drop-outs). Concerning vocational training, the PES do not have a separate offer for job seekers with a disability, except that, through various types of counselling, the PES provide help in adapting the course in order to enable jobseekers with disabilities to fully take part in the training.

To employers, Arbetsförmedlingen provides advice and financial support for workplace adaptation, and a subsidy for personal assistance in commuting to work or performing work. They also organise awareness raising campaigns focusing on disabilities.

Though disability policies are an integrated part of their work, there are some specialised counsellors as well:

*Some employment officers and specialized counsellors* work with job seekers with disabilities, often serving several local offices in a region. Employment officers have the initial contact between PES and the jobseekers. If it prevails that the jobseeker needs specialised help due to disabilities, the employment officer will initiate contact with the relevant counsellors. Employment officers can also assign jobseekers to join activities with private providers who specialize in supporting job seekers with disabilities.

*SIUS consultants* work with special introduction and follow-up support for jobseekers with disabilities that involve a reduced ability to work. SIUS is a labour market programme offered to a jobseeker who is in need of individual support to find, get, keep or return to work. It is based on the Supported Employment (SE) method and the support is given both to a jobseeker and to the employer. The method focuses on the 'Place then train idea', i.e. that all training must take place at a workplace and be based on the intended work tasks.

*Physiotherapists and occupational therapists* provide support in assessing jobseekers' needs regarding special working conditions and in adapting these. This may include activity-based



assessment of work ability, adaptation of the work situation and testing of work aids. Occupational therapists support the individual to utilize and develop their own resources, in most cases using the Model of Human Occupation as a theoretical basis. The methods the occupational therapist uses to get a picture of the individual's conditions for work are structured interviews, observation at work, self-assessment instruments and tools for analysis of work task (work requirement analysis) and work environment (work analysis). All occupational therapists and physiotherapists must be licenced and registered by the Swedish National Board of Health and Welfare.

*Psychologists* provide guidance, analysis and support in competence development.

*Visual and hearing impairment specialists* are available for jobseekers who have a visual and/or hearing impairment. They work consultatively and give support to local employment officers prior to planning and implementing services for this group.

Source: PES Network survey.

### **Box 11. The Irish EmployAbility Service**

The Iris PES ([Intreo](#)) is a single point of contact for all employment and income supports and employment services. Intreo has a nationwide network of offices and is also supported by the [Local Employment Service](#) network, [Job Clubs](#) and the specialised services of [EmployAbility](#) for jobseekers with disabilities and [JobPath](#) for the long-term unemployed. Intreo conducts the first interview of jobseekers and, if appropriate, refers them to the EmployAbility Service, which clients may use on a voluntary basis.

The EmployAbility Service is provided by NGOs on a contract basis and funded by the Department of Social Protection (DEASP). The service provides the following support for jobseekers with disabilities:

- Career advice including professional guidance in career planning, identification of skills, job search support and advice
- Employment support including access to job vacancies, support with the job application process, matching skills with employers' needs, work experience placements, sourcing employers, assistance with integrating into the workplace, work experience
- Follow-Up support including support for up to 18 months to help the person maintain their employment
- Information including advice on employment benefits and entitlements.

Source: PES Network Survey on discrimination, OECD 2021 Disability, work and inclusion in Ireland, <https://www.gov.ie/en/service/8578c4-access-the-employability-service/>.

### **3.8. Cooperation with other stakeholders**

As in most areas of public policy, cooperation between stakeholders is essential in the case of anti-discrimination policies. In most cases, joined-up services are much more effective and yield more sustainable results than standalone services. Potential partners include other public authorities (equality bodies, labour inspectorates, and municipalities), employers and their associations, trade unions, and NGOs. All but one PES indicated that they cooperate with other organisations in combatting discrimination (Table 9): some examples are presented in Box 12.

**Table 9. Number of PES cooperating with particular stakeholders**

	Higher gov. effectiveness (n=12)	Lower gov. effectiveness (n=10)	All (n=22)	Share, %
<b>Employers</b>	10	6	16	73
<b>Employers' associations</b>	10	6	16	73
<b>Trade unions</b>	9	7	16	73
<b>Equality bodies</b>	7	4	11	50
<b>Labour inspectorates</b>	4	6	10	45
<b>Other agencies</b>	4	2	6	27
<b>Interest organisations representing persons with disabilities, or other minorities</b>	0	0	0	0
<b>None</b>	0	1	1	5

Source: PES Network Survey on discrimination (2021)

\* Such as other government bodies, consultative bodies, labour courts, rehabilitation agencies.

The most prevalent partners are employers, their associations and trade unions – roughly three quarters of the respondent PES cooperate with these entities. Interestingly, it seems that there is no association between government effectiveness in a country and the extent to which PES cooperate with other organisations. It is important to note that none of the respondent PES reported of cooperating in their efforts to tackle discrimination with interest groups representing discriminated groups, except those of persons with disabilities.

### **Box 12. Cooperation between PES and other stakeholders in Ireland and Belgium**

The general trends show that PES in Ireland collaborates with a range of actors actively, and this cooperation between the PES and local actors are enhanced by government mechanisms. Over the years, PES have become an intermediation service and is more dependent on active collaboration with public authorities. On the one hand, it manages the provision of income support payments, on the other hand and as for its role in cooperation, it provides labour market activation services through job search assistance, employer intermediation, counselling and mentoring (OECD, 2021).

Cooperation in implementing and monitoring national strategies for vulnerable groups: In Ireland, there has been more focus on cross-departmental collaborations in preventing employment discrimination. The Department of Social Protection co-operate with other departments such as the Department of Justice to implement national strategies for discriminated groups. For example, the *Comprehensive Employment Strategy for People with Disabilities* is monitored by the Comprehensive Employment Strategy Implementation Group which consists of representatives of all relevant government departments including DSP/Intreo, trade unions, interest groups, etc.

In the Brussels region of Belgium, the regional rules emphasize the promotion of diversity within Brussels' companies. There is a diversity policy in place for both the private and the public sector, which enables the collaboration between unions and employers' representations (see Box 7).

Actiris (local PES) has strong partners in fighting against employment discrimination such as Unia or the Institute for Gender Equality. Unia monitors whether anti-discrimination measures are implemented effectively. Their main task is to combat discrimination by providing advice and support to discriminated people, drafting reports and studies, informing and training employers on anti-discrimination legislation, consulting with public authorities and associations. In case of discrimination, Actiris re-directs the complaints to Unia.

There are different tools available to tackle discrimination by Actiris can provide different tools to tackle discrimination: diversity charter (it can be signed by employers, and it describes the measures they commit to implement in order to promote diversity), diversity plans (possibility for companies, organisations or local public authority to develop and implement a diversity plan). Actiris consultants can provide practical support to Brussel-based companies with the development, implementation, evaluation and follow-up of their diversity plans.

In Flanders, VDAB and Unia also collaborate to tackle discrimination by holding information sessions or workshops for employers. In case of discriminatory activity, VDAB also forwards complaints to Unia organisations.

Source: PES Network survey.

### 3.9. Barriers faced by PES

All but one PES reported that it faced one or several barriers that limit their efforts in combatting discrimination (Table 10). The most common barriers include lack of openness on the part of employers (55% of all PES), limited financial resources (45%), and limited staff capacity (45%). In the case of all but one barrier, the PES in high government effectiveness countries face fewer barriers than other PES (level 2 and 3), which should not come as a surprise, since government effectiveness and the extent to which the cultural-institutional setting enables and encourages anti-discrimination efforts are largely related. The only barrier that PES in countries with higher government effectiveness are more likely to face is 'pressure to achieve more ambitious goals'.

The Belgian PES (Actiris) reported several further barriers not listed in the original survey question. First, the fact that labour market discrimination is most often 'soft', that is, it does not occur in an objective, clearly identifiable and provable manner, which hampers any legal action<sup>21</sup>. Furthermore, even if legal action is taken, it does not imply that the discriminated against jobseeker will be employed. Actiris argues that it is essential to go beyond the legal approach and, if possible, quantify discrimination. They also argue it is necessary to involve the potential victims of discrimination in such efforts as well as in the policymaking process.

**Table 10. Number of PES reporting particular barriers**

	Higher gov. effectiveness (n=12)	Lower gov. effectiveness (n=10)	All	Share, %
<b>Lack of openness on the part of employers</b>	7	5	12	55
<b>Lack of information on minority status</b>	6	6	12	55
<b>Limited financial resources</b>	4	6	10	45
<b>Limited staff capacity</b>	4	6	10	45
<b>Legal constraints to collecting information on minority status</b>	5	4	9	41
<b>Limited empirical evidence on what works</b>	3	4	7	32
<b>Limited autonomy in designing internal protocols and measures</b>	1	3	4	18
<b>Pressure to achieve ambitious outcome targets</b>	2	1	3	14

Source: PES Network Survey on discrimination (2021)

It is important to note that one in three respondents mentioned the lack of evidence on what measures work effectively as a significant barrier to their antidiscrimination efforts. Indeed, PES reported very limited evidence of the effectiveness of their existing policies. Though most PES include the equal treatment in their strategy and almost half of the

<sup>21</sup> Some forms of discrimination, for example, giving a priority to local-born as opposed to foreign-born job candidates, may be more tolerated by the general public. In such cases political will is also limited for providing PES with the necessary means to tackle the issue.

responding PES have concrete targets attached to supporting discriminated groups, very few PES report having some evidence on the effectiveness of anti-discrimination measures. Moreover, the scarce evidence available to PES covers a limited selection of the broad set of tools they use and most of the cited evidence concerned impact evaluations of ALMPs targeting groups facing labour market discrimination. None of the PES mentioned having evidence of the effectiveness of PES services or internal procedures.

## 4. SUMMARY FINDINGS AND POLICY RECOMMENDATIONS

### 4.1. Main findings

Discrimination in the labour market is one of the most damaging forms of discrimination as it widens economic inequalities and reinforces disadvantages in other areas. It can affect various groups and may affect wages as well as access to employment. During the past decades, discrimination has received increasing attention in the EU, however, despite significant efforts and advancements, it has remained a key challenge.

While theories should not be interpreted as providing justification for discrimination, they can support the development of effective policies against such behaviour by clarifying the underlying causes. Theoretical explanations may not apply to each discriminated group to the same extent. However, they have significantly different implications for the (theoretical) costs of discrimination for employers and the potentially effective anti-discrimination measures. Importantly, discrimination may in some cases be beneficial for employers, which implies that awareness raising, and similar, educative interventions may not be enough to tackle labour market discrimination.

The human rights-based approach recognises that employers can play an instrumental role in protecting human rights and also have a responsibility to comply with human rights and labour standards. The approach also emphasises the duty of public institutions to promote compliance by introducing and enforcing adequate regulations, and providing information as well as incentives to employers.

In legal terms, most countries' equality bodies are the main government agency responsible for detecting and sanctioning discrimination in the labour market and other areas of life. However, PES can also play an important role by compensating the disadvantages of discriminated jobseekers and providing information and incentives for employers. Moreover, if PES promote diversity within their human resources strategy, this can strengthen PES efforts to reach out to discriminated groups and will also help them understand what other employers need.

The range of potentially effective PES policies may vary across discriminated groups. Supply-side measures mitigating jobseekers' disadvantages are important for groups that face barriers in accessing education, those that face multiple forms of exclusion, and those lacking information and social networks in mainstream society. Awareness raising and counselling for employers may be needed for all groups, and especially where discrimination is based on lack of information and stereotypes or outdated social norms. Financial incentives for employers may be most effective for groups where discrimination is typically based on the perceived lower average productivity of the group.

Current PES approaches to discrimination and the range of tools applied vary widely across PES. In very general terms, PES in countries with higher government-effectiveness scores according to the World Governance Index, show stronger commitment and use a broader range of tools to tackle labour market discrimination.

In most countries, the mandate of the PES is limited to its general role in supporting job search and protecting jobseekers' rights against labour market discrimination. Accordingly, PES strategies are not especially elaborate regarding goals related to anti-discrimination. Only half of the responding PES set targets related to discrimination and only a handful of PES have targets focusing on explicitly promoting diversity to employers or within the PES organisation. However, those PES that formally include equal opportunities in their internal rules of operation also tend to set concrete targets in their strategy and have more elaborate tools in their internal procedures for tackling discrimination.

Regarding their own human resource strategy, about a third of the responding PES have a proactive and elaborate diversity strategy for all or some discriminated groups. However, most PES reported of having a general commitment (laid down in national legislation, ministerial decrees, or the national diversity charter) to ensure equal opportunities to all in their hiring process and human resources management.

Regarding services to jobseekers, PES deploy a fairly broad range of tools against discrimination, including supply and demand side measures as well as safeguards in their internal processes. Importantly, PES reported very limited evidence of the effectiveness of their existing policies.

Some policies are significantly more widespread among PES in countries with high government-effectiveness scores. These concern more elaborate provisions for reporting discrimination and handling complaints, as well as providing specialised employer counselling on anti-discrimination policies. These policies presuppose a fairly high level of organisational development, expertise and resources.

There are several policy tools that are potentially effective but are relatively less commonly used by PES: most of these are relatively costly or require a comparatively high level of organisational development. Though costly, these tools seem highly important for compensating the initial disadvantages of jobseekers at risk of discrimination because of their weaker networks and information processing skills, and also for reducing the risk of discrimination by PES counsellors.

All PES responding to the survey have some role in supporting the labour market inclusion of jobseekers with disabilities, in most cases shared with other authorities. Most PES make available some or all ALMP and services to jobseekers with disabilities as well, and most PES also offer further measures that are specifically designed to meet the special needs of jobseekers with disabilities. Demand side and some supply side tools are fairly commonly used by all PES, regardless of the level of governmental effectiveness in their country.

PES reported to cooperate with several stakeholders in tackling discrimination, especially with employers, their associations and trade unions. At the same time, several PES reported to face difficulties due to the lack of openness on the part of employers.

## **4.2. Recommendations**

There seems to be further room for broadening the set of tools used by PES to reduce discrimination. The current toolbox is dominated by demand side policies, notably wage subsidies, which might be effective in compensating employers for losing the (perceived) gains of statistical discrimination but may fail to tackle other sources of discrimination. There may also be a need for spreading the use of and broadening the range of supply side measures and internal procedures.

The need for these additional measures is likely to vary across the groups at risk of discrimination. To the extent that discrimination stems from network-based attitudes and perceptions, anti-discrimination policies need to include awareness raising and counselling for employers as well as financial incentives. Also, where discrimination is linked to the weaker social networks of minority groups, and/or discrimination affects school performance, there is a greater need for supply side measures to reduce the disadvantage of jobseekers. The need for these additional measures is likely to vary across the groups at risk of discrimination. These considerations also underline the need for more evidence on what works and what is cost-efficient for each target group.

PES may also need to increase the range of stakeholders they cooperate with in this area. For example, PES efforts may be sharpened if they involved the discriminated jobseekers (or their representatives) in their efforts to quantify and tackle discrimination. However, no PES in our survey reported of cooperating with interest groups representing discriminated people, except those representing persons with disabilities.

Though most PES include equal treatment in their strategy, and many have concrete targets attached, they lack evidence on the effectiveness of anti-discrimination measures. Clearly, there is a need for evaluating the impact of ALMPs as well as PES services and internal procedures established to tackle discrimination. There is a need for more evidence on what works and what is cost-efficient for each target group.

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**ANNEX 1. EQUALITY BODIES AND PROTECTED CHARACTERISTICS IN NATIONAL LAWS**

Country	Relevant specialised body dealing with race/ethnic origin	Grounds explicitly covered by the mandate of the specialised body
AT	Equal Treatment Commission — ETC (Act on the Equal Treatment Commission and the National Equality Body, §§ 1, 2, 11-14)	Gender, ethnic affiliation, religion, belief, age, sexual orientation
	National Equality Body -NEB (Act on the Equal Treatment Commission and the National Equality Body, §§ 3-5)	Gender, ethnic affiliation, religion, belief, age, sexual orientation
BE	Inter-federal Centre for Equal Opportunities and Opposition to Racism and Discrimination (Unia) (Cooperation Agreement between the Federal State, the Regions and the Communities creating the Inter-federal Centre for Equal Opportunities and Opposition to Racism and Discrimination, Art. 2)	Alleged race, colour, descent, national or ethnic origin, nationality, age, sexual orientation, civil status, birth, wealth/income (in French: <i>fortunes</i> , religious or philosophical belief, actual or future state of health, disability, physical characteristic, political opinion, trade union opinion ( <i>conviction syndicate</i> ), genetic characteristic and social origin
BG	Protection Against Discrimination Commission (Protection Against Discrimination Act, Arts. 4 (1), 40 (1-2), 47)	Race, ethnicity, gender, national origin, human genome, nationality, origin, religion or faith, education, beliefs, political affiliation, personal or social status, disability, age, sexual orientation, family status, property status, or any other ground provided for by law or by international treaty Bulgaria is a party to.
CY	Equality Authority and Anti-discrimination Authority 'z' (The Combating of Racial and other forms of Discrimination (Commissioner) Law N. 42(I)/2001), Arts. 5 and 7)	Race/ethnic origin, community, language, religion, age, sexual orientation, disability, colour, political or other beliefs, ethnic or national origin, special needs, any ground whatsoever, all rights guaranteed in ECHR and all its protocols, in the International Convention for the Elimination of All forms of Discrimination, in the Convention against Torture and other Forms of Inhumane or Humiliating Treatment, in the International Covenant on Civil and Political Rights and in the Framework Convention on the Protection of National Minorities
CZ	Public Defender of Rights (Act No. 349/1999 on the Public Defender of Rights, Art. 21(b))	Sex, race, ethnic origin, sexual orientation, age, disability, religion, belief or other conviction, 'nationality' (in Czech: <i>národnost</i> )
DE	Federal Anti-discrimination Agency (General Act on Equal Treatment, Sec. 25)	Race or ethnic origin, sex, religion or belief ( <i>Weltanschauung</i> ), disability, age, sexual identity
DK	Institute for Human Rights — National Human Rights Institute of Denmark (Act No. 553 of 18 June 2012)	Race, ethnic origin, gender, disability
	Board of Equal Treatment (Act on the Board of Equal Treatment)	Protected grounds in employment: gender, race, skin colour, religion or belief, political opinion, sexual orientation, age, disability, national origin, social origin, ethnic origin Protected grounds outside employment: gender, disability, race and ethnic origin
EE	Commissioner for Gender Equality and Equal Treatment (Equal Treatment Act, Arts. 15-22)	Sex, ethnic origin, race, colour, religion or other beliefs, age, disability and sexual orientation
	Chancellor of Justice (Chancellor of Justice Act, Art. 19-35 <sup>16</sup> )	Public sector: any ground; Private sector: sex, race, ethnic origin, colour, language, origin, religious, political or other belief, property or social status, age, disability, sexual orientation or other ground of discrimination provided for by the law
EL	Greek Ombudsman (Law 2477/1997, Art 1 and Equal Treatment Law 4443/2016, Art. 14)	Racial or ethnic origin, descent, colour, language, religious or other beliefs, disability, chronic illness, age, family or social status, sexual orientation, gender identity or characteristics
ES	Council for the Elimination of Racial or Ethnic Discrimination (Law on Fiscal, Administrative and Social Measures, Art. 33)	Racial and ethnic origin

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Country	Relevant specialised body dealing with race/ethnic origin	Grounds explicitly covered by the mandate of the specialised body
FI	Non-Discrimination Ombudsman (Act of the Non-Discrimination Ombudsman, Section 1)	Origin, age, disability, religion, belief, sexual orientation, nationality, language, opinion, political activity, trade union activity, family relationships, state of health or other personal characteristics.
	National Non-Discrimination and Equality Tribunal (Act on National Non-Discrimination and Equality Tribunal)	Gender, gender identity, origin, age, disability, religion, belief, sexual orientation, nationality, language, opinion, political activity, trade union activity, family relationships, state of health or other personal characteristics
FR	Defender of Rights (Organic Law no 2011-333 of 29 March 2011 creating the Defender of Rights, Art. 4(3))	Any ground protected by national law and international conventions ratified by France
HR	People's Ombudsperson (Anti-discrimination Act, Art. 12(1))	Race or ethnic origin or colour, language, religion, political or other belief, national or social origin, property, trade union membership, education, social status, age, health condition, genetic heritage.
HU	Equal Treatment Authority (Act CXXXV of 2003 on Equal Treatment and the Promotion of Equal Opportunities; Arts. 8 and 14-17D)	Sex, racial affiliation, colour of skin, nationality (not in the sense of citizenship), belonging to a national or ethnic minority, mother tongue, disability, health condition, religion or belief, political or other opinion, family status, maternity (pregnancy) or paternity, sexual orientation, sexual identity, age, social origin, financial status, part-time nature of employment legal relationship or other legal relationship connected with labour, or determined period thereof, belonging to an interest representation organisation, other situation, attribute or condition of a person or group.
IE	Irish Human Rights and Equality Commission (Irish Human Rights and Equality Commission Act 2014, Sec. 9 and 44)	Gender, age, race, religion, family status, disability, civil status, sexual orientation, membership of the Traveller community, housing assistance
IS	Centre for Equality (Act on Equal Treatment irrespective of Race or Ethnic Origin, Art. 5 and Act on Equal Treatment in the Labour Market, Art. 5)	Gender, race, ethnic origin, religion, belief, disability, reduced capacity to work, age, sexual orientation, gender identity, gender expression and gender characteristics
IT	National OPice against Racial Discrimination UNAR (Legislative Decree No. 215/2003 Implementing Directive 2000/43/EC, Art. 7)	Race, ethnic origin, sex, religion or personal belief, disability, age and sexual orientation
LI	Association for Human Rights in Liechtenstein (Act on the Association for Human Rights in Liechtenstein, Art.4)	Human Rights
LT	Equal Opportunities Ombudsperson (Law on Equal Treatment, Arts. 14-30)	Gender, race, nationality, citizenship, origin, age, sexual orientation, disability, ethnic origin, language, social status, religion, belief, convictions, views
LU	Centre for Equal Treatment (General Anti-Discrimination Law of 28 November 2006, Art. 8)	Race, ethnic origin, religion or belief, disability, age, gender, sexual orientation, nationality
LV	Ombudsman (Law on Ombudsman, Art. 11 (2))	Grounds not specified, hence any ground
MT	National Commission for the Promotion of Equality for Men and Women" (Equality for Men and Women Act, Art. 11)	Sex, family responsibilities, sexual orientation, age, religion or belief, racial and ethnic origin, gender identity, gender expression, sex characteristics, actual or potential pregnancy, childbirth
NL	Netherlands Institute for Human Rights (Netherlands Institute for Human Rights Act, Arts. 9-13)	Race, religion and belief, political opinion, hetero— or homosexual orientation, sex, nationality, civil (or marital) status, disability, age, working time and type of labour contract
	Local anti-discrimination bureaux (NGO Art.1) (Local Anti—discrimination Bureaux Act, Art. 1)	Race, religion and belief, political opinion, hetero— or homosexual orientation, sex, nationality, civil (or marital) status, disability, age

Country	Relevant specialised body dealing with race/ethnic origin	Grounds explicitly covered by the mandate of the specialised body
NO	Equality and Anti-discrimination Ombud (Act on the Equality and Anti-discrimination Ombud and the Anti-discrimination Tribunal, Arts. I and 5)	Gender, pregnancy, leave in connection with childbirth or adoption, care responsibilities, ethnicity, religion, belief, disability, sexual orientation, gender identity, gender expression, age, membership of a trade union, political affiliation, or combination of these factors.
	Equality and Anti-discrimination Tribunal (Act on the Equality and Anti-discrimination Ombud and the Equality and Anti-discrimination Tribunal, Art. 1) <sup>53</sup> 1	Gender, pregnancy, leave in connection with childbirth or adoption, care responsibilities, ethnicity, religion, belief, disability, sexual orientation, gender identity, gender expression, age, membership of a trade union, political affiliation, or combination of these factors.
PL	Commissioner for Human Rights ('Ombudsman') (Act on the Commissioner for Human Rights, Art. 1)	Grounds not specified, hence any ground
PT	High Commission for Migrations (Decree-law 31/2014, Art. 1)	Race and ethnic origin, skin colour, nationality, religion, ancestry and territory of origin
RO	National Council for Combating Discrimination (Ordinance (GO) 137/2000 regarding the prevention and the punishment of all forms of discrimination, Art. 16 and following)	Race, nationality, ethnic origin, language, religion, social status, beliefs, sex, sexual orientation, age, disability, non-contagious chronic disease, HIV positive status, belonging to a disadvantaged group, any other criterion
SE	Equality Ombudsman (The entire Equality Ombudsman Act)	Sex, transgender identity or expression, ethnicity, religion or other belief, disability, sexual orientation, age
SI	Advocate of the Principle of Equality (Protection Against Discrimination Act, Arts. 19-32)	Gender, language, ethnicity, race, religion or belief, disability, age, sexual orientation, gender identity, gender expression, social standing, economic situation, education, any other personal characteristic
SK	Slovak National Centre for Human Rights (Act on the Establishment of the Slovak National Centre for Human Rights, Sec. 1, paras 2a, e, f, g, h and Sec. I (3) and (4))	Sex, religion or belief, race, affiliation to a nationality ( <i>Inârodnost</i> ) or an ethnic group, disability, age, sexual orientation, marital status and family status, colour of skin, language, political or other opinion, national or social origin, property, lineage/gender, unfavourable health condition, family duties, membership of or involvement in a political party or a political movement, a trade union or another association, the reason of reporting criminality or other anti-social activity, or other status

Source: Table 11. Relevant specialised bodies dealing with racial/ethnic origin, and the grounds covered by their mandates, in: European Commission. Directorate General for Justice and Consumers. and European network of legal experts in gender equality and non discrimination. 2020. *A Comparative Analysis of Non-Discrimination Law in Europe 2019: The 28 EU Member States, Albania, North Macedonia, Iceland, Liechtenstein, Montenegro, Norway, Serbia and Turkey Compared*. LU: Publications Office. <https://data.europa.eu/doi/10.2838/797667> (downloaded on 11 November 2021).

## ANNEX 2. CATEGORISATION OF PES POLICIES

This section briefly outlines a framework for the structured presentation and discussion of anti-discrimination policies of PES covering any policy that PES may implement and that potentially reduces discrimination as defined by the aforementioned EC Directives. Importantly, we use the term *policy* in a broad sense, including efforts ranging from labour market policies to hiring practices or organisational adjustments.

### *Supply and demand side policies*

PES anti-discrimination measures may focus on the demand or supply side of the labour market. Measures focusing on the supply side of the labour market are justified by the theory of statistical discrimination. Such policies may include for example financial incentives, consulting, or training.

Secondly, PES measures may focus on the demand side of the labour market by targeting employers directly. These policies may, for example, include identifying and sanctioning discriminatory employers, or incentivising recruitment of jobseekers from disadvantaged groups.

Finally, PES may also implement measures to combat discrimination within its own processes. On the one hand, as an employer, PES may apply good practices to reduce discriminatory norms in its hiring process. On the other hand, as a service provider, PES may also implement measures to eliminate discrimination within its services (e.g. training).

### *Policy tool*

A further relevant analytical aspect of PES anti-discrimination policies is the type of the policy tool they apply. We discern the following three types:

- *Regulation and monitoring*: PES can create rules prohibiting discrimination and/or monitor whether such rules are complied with. For instance, PES can check job advertisements and sanction discriminatory employers, or closely monitor its own selection process.
- *Information provision*: PES can provide stakeholders with information (such as providing employers with good practice guidance, or jobseekers with job information).
- *Services and ALMP*: PES can implement services and measures or provide financial aid and incentives both for jobseekers and employers.

### *Target groups*

Another important aspect of anti-discriminatory policies is the range of disadvantaged groups it targets. While some policies are fit to reduce discrimination against any group (e.g. monitoring job ads, mentoring), others are suited to assist only one or a few groups (e.g. subsidies for workplace adaptation are typically used to incentivise employers to hire people with disabilities).

PES may vary in their general approach regarding target groups: some may fully individualise their support, while others may develop tools specific to particular subgroups.

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