

## Dossier on Testing

### What is Testing?

In order to prove discrimination, the evidence has to be supplied that two persons were treated differently in a comparable situation in view of the grounds mentioned in the AGG. One way of producing proof is by carrying out a "testing". If this is the case, the testing procedures provide an indication of the presence of discrimination within the meaning of § 22 General Equal Treatment Act (AGG). However, in German courts "testing" has been just recently been accepted as evidence in some occasions.

An example: a person with "non-German" sounding name responds to an apartment ad. They receive the information that the apartment has been rented. If there is the suspicion that the information was incorrect and had been given on discriminatory grounds, a person with "German" name could act as a comparative person. If this person is told that the apartment is still available, this may be evidence of discrimination.

For this proof to actually stand up in court, certain methodological requirements must be complied (see in particular the study by Alexander Klose and Kerstin Kühn "[The applicability of testing procedures within the framework of the burden of proof](#)").

The following articles provide an overview on opportunities, methods and debate on the topic "Testing" in Germany and in other countries.

### Testing in Germany

Anti-discrimination network Berlin of the Turkish Union in Berlin-Brandenburg (ed.): [Anti-Discrimination Report Berlin 2006-2008](#), 2008, pp. 32ff.

Klose, Alexander; Kühn, Kerstin: [The applicability of testing procedures within the framework of the burden of proof](#), § 22 of the General Equal Treatment Act, expertise on behalf of the Anti-Discrimination Agency

Klose, Alexander; Kühn, Kerstin: [commercial law, racial / ethnic discrimination and testing procedures](#) -report commissioned by the Anti-Discrimination Network Berlin of the Turkish Union in Berlin-Brandenburg (TBB ADNB of), 2009

Yigit, Nuran; Andrades Vazquez, Eva Maria; Yazar, Serdar: [Prove hidden discrimination! TESTING as an instrument of anti-discrimination work](#), 2010

## Testing in Europe

Rorive, Isabelle, Proving Discrimination Cases: [The role of situation testing](#) (Stockholm, Center for equal Rights/Migration Policy Group, 2009) (Available in English)

Testing in Belgium

Véronique van der Plancke: [Les tribulations du testing en Belgique : quels enseignements ?](#)

Testing in France

Burnier, Frédéric; Pesquié, Brigitte: Test de discrimination et preuve pénale, in: Horizons Stratégiques no. 5 (Juli 2007)

Haute Autorité de Lutte contre la Discrimination et pour l'égalité (HALDE) (Hrsg.): Les tests de discrimination: pratiques et perspectives, 2009

Testing in the Netherlands

Bovernkerk / Gras / Ramsøedh: [Discrimination against migrant workers in access to employment in the Netherlands](#), International Labour Organisation, Geneva, 1994 (available in English)

Testing in Hungary

Fitsum Alemu: [Testing to prove racial discrimination: methodology and application in Hungary](#), 2004 (available in English)

Testing in the USA

Fix M. and Turner M. (eds.): [A national report card on discrimination: The role of testing](#), Washington: Urban Institute Press, 1999 (available in English)

Marc Bendick Jr.: Situation Testing for Employment Discrimination in the United States of America, 2007 (available in English)

## Scientific testing studies (not available online)

- Kaas/Manger, Ethnic Discrimination in Germany's Labour Market: A Field Experiment, IZA Discussion Paper No. 4741, 2010;

-Kilic, discrimination against migrants in finding accommodation - A study in Berlin, 2008, unpublished thesis in the Faculty of Social Sciences at Humboldt University in Berlin with Prof. Dr. Häußermann;

- Lechner, Claudia, ethnic discrimination in the housing market (unpublished thesis), 2010

- Planerladen e.V. (Ed.) unequal treatment of immigrants in the housing market. Results of a telephone "Ethnic paired testing" in regional real estate ads, 2009;

- Planerladen e.V. (Ed.) unequal treatment of immigrants in the housing market. Testing for evidence of discrimination - Explanations and Recommendations on the use of the method, 2008;

- Planerladen e.V. (Ed.) unequal treatment of immigrants in the housing market. Results of a "paired testing Ethnic" in Internet real estate exchanges, 2007.

Compiled by Alexander Klose ([Office of Science and Law](#)), whom we thank for the support.