European Foundation for the Improvement of Living and Working Conditions

Temporary agency work and collective bargaining in the EU

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BG	Bulgaria	**LU**	Luxembourg
CY	Cyprus	**MT**	Malta
CZ	Czech Republic	**NL**	Netherlands
DK	Denmark	**PL**	Poland
EE	Estonia	**PT**	Portugal
FI	Finland	**RO**	Romania
FR	France	**SK**	Slovakia
DE	Germany	**SI**	Slovenia
EL	Greece	**ES**	Spain
HU	Hungary	**SE**	Sweden
IE	Ireland	**UK**	United Kingdom
IT	Italy		

Acronyms

Eurofound	European Foundation for the Improvement of Living and Working Conditions
EWCS	European Working Conditions Survey
LFS	Labour Force Survey

This report reviews the present situation regarding the use of temporary agency work (TAW) in European Union Member States. It examines arrangements for social dialogue and collective bargaining at national level across the EU. It examines the role of collective bargaining in determining such matters as length of assignment, the use of TAW in strikes, and the proportion of agency workers allowed; it also examines the role of collective bargaining in determining equality of treatment in pay, training and other conditions of employment. In addition the report reviews other forms of regulation, and national variations, including the composition of companies in the field of TAW, its sectoral and occupational distribution, and the duration of temporary assignments.

Introduction

Temporary agency work (TAW) is a unique, 'triangular' form of employment, which involves the supply of workers by intermediary firms for assignments in other organisations. In some countries, the use and regulation of TAW is extensive and well established, whereas in others TAW is a relatively new phenomenon. A recent comparative review of TAW, **Temporary agency work in an enlarged European Union**, conducted by the European Foundation for the Improvement of Living and Working Conditions (hereafter referred to as 'Eurofound') found that TAW was an important and often rapidly growing sector in most EU countries, but that there were significant national differences concerning the organisation of the sector – the characteristics of agency workers and their experience of work, such as the number and duration of assignments, and the regulation of TAW, whether by law and/or collective bargaining. This report provides further and updated findings from a comparative review based on the results of a questionnaire distributed to 28 national centres in March 2008.

As in the preceding report, the research was conducted by Eurofound's **European Industrial Relations Observatory** (EIRO), with the support and involvement of the social partners at European and national levels. It is based on a questionnaire survey distributed to EIRO national centres, which covered issues such as the extent and composition of TAW, employment and working conditions in the sector, and the statutory framework of regulation. An important focus, however, was the role of social dialogue and collective bargaining in the Member States, and the views and contributions of the national-level social partners were actively canvassed to this end.

This focus is particularly apposite given recent developments. The social dialogue for TAW has had institutional force at EU level since the establishment of a sectoral social dialogue committee in 2000. This process delivered its first joint declaration in 2001 and has recently produced two further important and influential Joint Declarations. In February 2007, **the Joint Declaration within the framework of the flexicurity debate** reaffirmed the need 'to reach a fair balance between the protection of agency workers and enhancing the positive role that agency work may play in the European labour market'. The Declaration emphasised a number of points.

- It stressed that agency work can smooth transitions from unemployment or education into work, lead to longer-term employment and help improve work–life balance. It called for the prevention of any discriminatory measures against the industry compared to other forms of non-open-ended contracts (including matters concerning length of assignments and renewal of contracts), and for a regular review of the restrictions or prohibitions on the use of temporary agency work. Those not justified, objective or proportional should be considered for withdrawal.
- The social partners also committed themselves to the fight against 'unfair competition', illegal practices and undeclared work, and categorically stated that agency workers should not be used to substitute for striking employees. The social partners also asserted the importance of the principle of equal treatment for agency workers, both within agencies and with user companies. They stressed the need to promote sector social dialogue at national level, as one appropriate means of regulation, to recognise temporary agency workers' right to freedom of association, and the need to facilitate access to vocational training for agency workers. The Declaration also stated that in order to improve the employment and social protection of workers, efforts should be made to provide for continuity of rights between assignments.

In May 2008, the Joint Declaration on the draft Directive on working conditions for temporary agency workers again recognised the positive role that temporary agency work can play in the implementation of active labour market policies. It also reasserted the need to fight strikebreaking and unfair and illegal competition, and restated the need to regularly review any restrictions imposed on agency employment. More specifically, in relation to the European Commission's draft Directive on Temporary Agency Work, the social partner agreement contained two key elements.

- It recognised the principle of equal treatment for temporary agency workers with comparable user-company employees from the first day of an assignment, with possible derogations (such as a qualifying period) agreed upon by representative social partners at national level, according to context.
- It provided definitions and criteria for the comparability of working and employment conditions between agency workers and direct employees doing the same or a similar job in the user company.

The social partners also highlighted in their Joint Declaration that TAW was already covered by a number of EU laws, notably **the Health and Safety Directive (91/383/EEC)** and **the Posting of Workers Directive (96/71/EC)**, and stated that the latter must be better implemented and enforced. Furthermore, as stated in their joint work programme 2008–2009, Eurociett and UNI-Europa committed themselves to devoting special attention to this issue with a view to developing a joint contribution. As a further indication of the accelerating development of the social dialogue at European level, both parties also agreed to establish a European observatory on cross-border TAW activities. This significant initiative follows active cooperation in the area of vocational training, where a jointly-sponsored research project is currently underway to investigate the employment profile of agency workers, and in particular their training needs, and identify social-partner interventions to promote access to training.

The May 2008 joint declaration informed the political agreement on the agency work Directive reached in the EU Employment Council in June (EU0807049I). This stated that the principle of equal treatment from the first day of an assignment will be the general rule. However, Member States may agree exemptions or derogations via collective agreements by the social partners (Article 5.3) or, where these do not have general legal force, by alternative means following a national-level agreement between social partner representatives (Article 5.4). The agreement also accepted that existing restrictions on TAW, such as by sector or occupation, contract duration or reasons for use, should be reviewed and justified (Article 4). The European Parliament voted in October 2008 to support the proposals put forward by the Council and the Commission without amendment. Member states are now required to incorporate the provisions of the Directive in their national law, which will be effective within three years.

Hence, social dialogue is now an established and influential process for the regulation of TAW at European level. This report examines arrangements for social dialogue and collective bargaining at national level across the different Member States. It also reviews other forms of regulation and other developments in the sector. It shows that the sector continues to be an increasingly significant employer and that it is currently experiencing strong growth in most countries. It is usually regulated by general labour and commercial law, together with a specific framework of regulations that apply to TAW. When it comes to collective bargaining, there is a wider range of procedural and substantive practice amongst Member States, reflecting different industrial relations traditions and approaches to employment regulation generally. Only a few countries among the smaller, new Member States (NMS) are without any framework for the regulation of TAW. Nevertheless, perhaps the biggest challenge concerning the regulation of TAW is to build or maintain the capacity for effective social dialogue in a sector in which workers, by the very nature of their temporary attachment to the workplace, are largely unorganised.

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Temporary agency work – a snapshot

Significance and recent growth

Temporary agency work is a significant form of employment in most Member States and employs large numbers of workers, especially in the larger economies. Belgium, France, Germany, Italy, the Netherlands, Spain, and the UK have a particularly well-developed TAW sector (Table 1). This is also a sector commonly experiencing rapid, and in some cases substantial, levels of growth, both in terms of number of employees and sector revenues.

Table 1: *TAW employment and revenues, 2004–2007*

Country	Number of workers, 2007	Change since 2004 (%)	Sector revenues (€ millions), 2007	Change since 2004 (%)
AT*	59,262	34.3	n.a.	n.a.
BE	95,465 (382,188)	27.1 (17.3)	4,176	35.2
CZ*	35,000	n.a.	153	n.a.
DE	614,000	53.6	15,000	11.3
DK*	20,600	-12.4	1,038	135.9
ES	160,000	4.6	3,733	23.6
FI	28,000	100.0	925	110.2
FR	637,901	11.9	21,700	17.9
GR	8,172	133.3	87.5	338.0
HU	55,000	4.4	n.a.	n.a.
IE	35,000	40.0	1,600	23.1
IT	(594,744)	(48.0)	6,290	17.0**
LU	(8,003)	(45.8)	230	53.3
NL	233,000	48.4	11,300	73.8
NO	24,982	8.6	1,578	n.a.
PL	60,000	93.5	530	219.3
PT	(103,400*)	(10.9***)	750	15.4
RO	(c. 25,000)	n.a.	c.120	84.6
SE	59,400	69.7	2,200	n.a
SI	(4,874)	(99.3)	n.a	n.a
SK*	10,828	n.a.	31	n.a
UK	1,196,000	(8.7)	35,700	7.0

Notes: *(1) Employment is expressed in terms of in full-time equivalents (total daily average) except for figures in parentheses which refer to absolute numbers. Source: Eurociett except for UK (supplied by BERR, 2008) and figures in parentheses which are provided by national centres, utilising official statistics (apart from RO, where the national centre provides an estimate of the number of agency workers employed by the largest four firms, and BE, where these are supplied by ACV-CSC).*
(2)* *2006 not 2007 figures*; ** *increase 20062–2007*; ****increase 2005–2006*
(3) *Source for revenue data: Eurociett except for IT, LU, PT, RO (estimates for 2008)*

At this point, it should be noted that arriving at an accurate and detailed profile of TAW in the EU is made difficult by the inconsistent and often limited statistics that are collected in Member States. In most countries, data is gathered on the number of agency firms and agency workers by employer associations and the official statistics authorities. However, these may not always be authoritative, even in some of the larger countries with extensive TAW use. In the UK, for example, the two main measures are drawn from the leading employer association, which estimates 1.4 million agency

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workers in the country, based on a survey of its members, and the Labour Force Survey, which (following reweighting in May 2008) indicates that 270,000 people hold an agency job as their main form of employment. The former has been criticised on methodological grounds for its low response rate and an inflationary focus on staff on the books rather than in actual placement at the time of the survey (Forde et al, 2008). The latter is problematic as it is likely to underestimate the number of agency workers because it is a survey of individuals drawn from 60,000 households and groups such as (short-term) migrant workers are less likely to be sampled. As a result, a survey of recruitment agencies was commissioned by the Department for Business, Enterprise and Regulatory Reform (**BERR**). This was conducted in the autumn of 2007 and estimated the number of agency workers to be closer to those of the Recruitment and Employment Confederation (**REC**).

Table 2 summarises the verdict of national centres on the availability and quality of data. Relatively few respondents found themselves more than happy with the data available. In particular, relatively little is known about the organisation or experience of work in the sector, such as how long individuals remain as agency workers and their motivation for doing so, the number and duration of their assignments, and the reasons that client companies use TAW.

Table 2: *National centre verdicts on availability and quality of statistical data*

Country	Perception of data
AT	Official survey is systematically conducted but insufficiently comprehensive.
BE	Employers' federation produces most data (recognised as valid by others including trade unions).
BG	None available as TAW is without statutory basis.
CY	No data as TAW is without statutory or institutional basis.
CZ	Agencies are obliged to report data annually to the Ministry, or attract a fine of CZK 500,000; however, but only a third of all agencies complies. The requirement is not enforced partly because the Ministry cannot cope with current levels of data given the large number of agencies now operating.
DE	Satisfactory overall, though specific surveys of the agency worker population could better deal with issues such as union membership or workers' levels of satisfaction.
DK	Limited: reflects recent origin of TAW arrangement and growth through migrant labour.
EE	Very poor: labour force statistics do not analyse TAW due to low sample size; the first independent sector survey took place in 2007 but has been criticised on methodological grounds.
ES	Quite reliable, given formalities required for TAW contracting
FI	Quite reliable: there are data from several sources including a large survey of agency workers.
FR	Two authoritative official data sources covering use of agency work (DARES) and nature of agency workers (INSEE), but methodological changes have weakened the latter since 2005
GR	Limited: few studies and official figures require updating (most recent is 2004; Ministry data for 2005–2006 is anticipated for summer 2008).
HU	Good overview at the aggregate level but more information is required, both on the business data of agencies and employment patterns of agency workers.
IE	Official data probably underestimates TAW; the problem is the highly fluid nature of the employment arrangement combined with uncertainty over who is the employer.
IT	Good: reliable data is provided by the Study Centre Observatory of Temporary Work (Osservatorio Centro Studi per il Lavoro Temporaneo), created by FORMATEMP and EBITEMP.
LT	No official data as TAW has no legal basis and no other surveys due to small scale
LU	Little recent data and mostly basic
LV	Not available; TAW is at a very early stage and official surveys do not differentiate it.
MT	No data due to small scale
NL	Variable quality
NO	Reasonable – combination of employers' association and official data (latter due to improve)

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Table 2: *National centre verdicts on availability and quality of statistical data (cont'd)*

Country	Perception of data
PL	Readily available basic data from government agencies' websites
PT	Largely insufficient
RO	Not substantive enough, reflecting that TAW operations have been permissible for only three years
SE	Difficult to obtain: TAW is new and forms part of a range of other sectors and activities.
SI	Difficult to find detailed statistics: the level of TAW is relatively low despite recent rapid growth.
SK	Some weaknesses: official data are collected by the relevant ministry (ÚPSVaR) from annual reports submitted by agencies, but not all agencies complete these and they do not cover general data on agency workers such as gender, age, working time schedules or longevity of assignments.
UK	Inconsistent – the relevant ministry (BERR) thus commissioned a quantitative study of the sector in 2008.

Notwithstanding such considerations, the figures provided by most respondents and member federations of Eurociett indicate a rapid growth in TAW employment. Only a handful of Member States report that TAW has a marginal presence in the labour market. This is sometimes linked to a lack of any regulatory framework. In Bulgaria, for example, TAW has no legal basis as such, though in practice it might operate under a contract for services between an agency and user firm. There are 160 'intermediary private agencies', which are registered under special ordnance by the National Employment Agency to provide job search and recruitment services and some of these may conduct business that resembles TAW. A proposal to introduce a legal framework for TAW is currently under consideration. In Romania, where the sector was legally established in 2004, there are now more than 25,000 agency workers. This is indicative of wider labour market change, with the number of temporary workers increasing by 33% between 2004 and 2006 to a total of nearly 432,000. In Spain, temporary work constitutes 30.9% of all employment, and TAW accounts for 16.6% of all temporary contracts. The number of agency workers increased by nearly 22% between 2004 and 2007. As Table 1 shows, even this figure was well surpassed by most of the other countries for which data was available.

Respondents referred to a number of factors helping to drive the growth in TAW. On the supply side, these include the active use of TAW to facilitate the re-engagement of the long-term unemployed into work, and a growth in the labour force participation of people that need or prefer temporary work such as women and students. Agency work can help maintain their employability whilst offering a form of work–life balance around educational or childcare commitments. To take one national example, the Slovenian national employer association estimates that the hours worked by students as agency workers equates to 40,000 full-time jobs. In addition, an important factor in some states is the increased labour mobility provided by EU enlargement. In Denmark, for example, 13% of 'work and stay' permissions granted since 2004 have been to east Europeans hired by temporary agency firms. Migrant workers might find TAW to be a realistic means of engaging with foreign labour markets, initially or for a fixed period of time. At the same time, the growing pool of groups such as students and migrant workers available for TAW itself may stimulate employers' interest and demand in many sectors.

Turning to the demand side, TAW enables user firms to make relatively easy labour adjustments and offers transaction-cost savings by outsourcing some responsibility for recruitment and administration. It also generates a group of workers, from which candidates can be selected for any permanent posts. In addition, the extensive and systematic use of TAW can permit reductions in the 'core' permanent workforce, with TAW used to respond to any production peaks. In Italy, the latest data is from research conducted by the employer association in 2003, which found that 78% of assignments reflected production peaks, 16% were used to substitute for absent workers, and 6% to source skills not present in the firm's workforce. Such use of TAW can thus be a means of achieving wage-cost control as well as labour flexibility, and is most readily used for lower-skill employment in competitive sectors with varying or unpredictable demand. In Slovakia and the Czech Republic, for example, the rapid development of sectors such as automotives and electrical

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manufacturing, led by large international companies, has promoted the growth of TAW. To take one example, the number of permanent employees at Skoda Auto in the Czech Republic increased by 2.3% to 23,559 people in 2007, while the company's agency workers grew by 13.2% to 4,194.

Agency work is also widely used in sectors affected by seasonal patterns of demand. This was reported in the expanding tourism and construction sectors in Romania, where it is also used to replace employees taking summer or Christmas leave in sectors such as manufacturing, civil engineering, retail, IT and secretarial services. In the UK, agency workers are extensively used to cover staff absences due to sickness or maternity leave, or for short cover while firms go through the process of filling vacancies. These reasons were reported in most UK workplaces (58%), according to the 2004 Workplace Employment Relations Survey, though 37% also made recourse to agency work to meet variation in demand. UK research also suggests that the growth of agency work is associated with short-term budget control and labour shortages, especially in the public sector. A further consideration in countries such as Poland and Bulgaria, which have acute labour shortages in some sectors, is the difficulties that some employers face in meeting their employment needs. Agency work is therefore resorted to in conditions of growth as well as economic fluctuation or intensifying competitive pressures. A final consideration is that as the sector becomes better established, agency firms are better placed to market their activities to potential workers and client companies, offering a wider range of services and entering into longer-term relationships.

Structure and workforce characteristics

The data gathered by respondents permits a number of observations about the structure and workforce characteristics of TAW in many countries. First, large TAW firms, including multinational companies (MNCs), play an important role in the sector, though their dominance of national markets varies a great deal between countries. Industry concentration and internationalisation tends to be highest in the countries that have only recently opened up a market for agency work. For example, of the 25,000 agency workers hired in Romania in 2007, 6,600 were placed by Adecco, 5,000 by Manpower and two other multinational firms accounted for 7,000 between them. In Poland, 256,000 agency workers (53% of all agency workers) are placed by 20 firms. In Hungary, four of the top 10 firms, which collectively account for 28% of sector turnover, are MNCs and the nine MNCs present in Slovakia account for half the industry's turnover. In the Czech Republic, the four largest agencies supplied over 46,000 workers in 2007, which is likely to comprise most agency employees.

Large firms are also important in the countries with the most extensive use of TAW. According to Eurociett data for 2005, France, Belgium, the Netherlands and Spain are characterised as 'concentrated markets dominated by large global players'. The largest five firms in these countries account for respectively 83%, 74%, 69% and 59% of industry turnover. In France, Adecco and Manpower generated 46% of the industry's turnover in 2004, with Vedior-Bis and ADIA together accounting for a further 24%. In Spain, the six biggest firms account for 47% of TAW contracts. In the Netherlands, the takeover of Vedior by Randstad in 2008 marks further concentration of the sector. Similarly, in Norway, six of the largest 15 companies are subsidiaries of foreign multinationals and Adecco and Manpower together account for 61% of total sector revenues. In contrast, the UK is an example of a 'very fragmented' market, where the largest five firms account for only 20% of sector revenues. Germany represents a more mixed picture, with the top five generating 31% of industry turnover, but where there is also a tendency towards increasing firm size. In 2004, 58.5% of German agencies employed fewer than 10 staff and only 5.3% employed 100 or more; in 2007, the figures were 30.8% and 13% respectively.

However, small firms are also often very important in the sector, and have benefitted from the growing demand for agency services. In the UK, there were 6,500 UK recruitment businesses registered for VAT in 1994 and by 2005 this had risen to 16,800. According to a 2006 'census' of the industry by the Recruitment and Employment Confederation, based on more than 4,500 interviews, the majority of agency firms (65%) consist of just one office and 53% have between two and five staff. In Slovakia, the number of agencies increased from 180 in 2004 to 611 in 2007. There is also rapid growth in Denmark, where the number of registered agencies increased from 625 in 2005 to 1,036 by 2007, and Germany, where the number of agencies increased from 15,416 in 2004 to 29,784 in 2007.

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Another pattern of agency work is more universal and refers to the employment of a high proportion of young workers (Table 3). Many young agency workers are likely to be students who work part-time or for full-time periods around their studies, though agency work is not usually associated with part-time work. In France, Luxembourg and Romania, around one in 10 agency workers is part time; in Germany, Spain and the UK the figure is more like a fifth or a quarter; and only in Finland and, especially, Slovenia is the rate of part-time working particularly high.

Table 3: *Workforce characteristics of TAW*

Country	Percentage male/ female		Percentage full/part time		Percentage of young workers	Percentage of older workers
AT	81	19	n.a.	n.a.	n.a.	n.a.
BE	58	42	n.a.	n.a.	37% under 26 years	15% aged 50–64 years
CZ	53	47	n.a.	n.a.	45% under 26 years	20% over 45 years
DE	74	26	83	17	31% under 25 years	24% 45–60 years
ES	56	44	75	25	34% under 25 years	9% over 45 years
FI	35	65	c.59	c.41	46% under 25 years	5% over 45 years, 1% over 50 years
FR	72	28	c.92	c.8	31% under 26 years	14% over 45 years, 7% over 50 years
GR	51	49	n.a.	n.a.	85% under 36 years	4% over 45 years, 1% over 55 years
HU	55	45	n.a.	n.a.	32% under 26 years, 60.5% under 31 years	20% over 45 years, 13% over 50 years
IT	58	42	n.a.	n.a.	27% under 24 years	4% over 50 years
LU	77	23	c.90	c.10	c. 39% under 25 years	c.8% over 50 years
NL	54	46	53	47	32% under 25 years	12% over 45 years, 8% over 50 years
NO	51	49	n.a.	n.a.	29% under 25 years	12% 45–54 years; 5% 55+
PL	49	51	n.a.	n.a.	c. 80% under 26 years	8% over 50 years
RO	57	43	88	12	n.a.	n.a.
SE	50	50	n.a.	n.a.	23% under 26 years, 46% under 31 years	17% over 45 years
SI	53	47	17	83	22% under 25 years	8% over 50 years
SK	60	40	n.a.	n.a.	n.a.	n.a.
UK	57	43	75	25	34% aged 16–25 years; 51% under 30 years	15% aged 50–64 years

Notes: *Figures are the most recently available. No data for BG, CZ, DK, EE, IE, LT, LV, PT, SE. For the UK, figures from LFS (data from REC has 63% female). According to figures supplied by Eurociett, workers aged less than 25 years comprise 48% in NL and 26% in PL. Source: EIRO national centres, Eurociett*

In other countries, where access to relevant statistics was difficult or not possible, national centres were able to draw on contacts with the social partners or utilised data relating to temporary work more broadly. The social partners in Lithuania stated that most agency workers are young and in part-time employment. In Malta, there were 5,392 temporary workers in 2004 (representing 3.6% of the working population), of which 53% were male (2.8% of the male workforce) and 47% female (5.6% of the female workforce). Three-quarters (76%) were employed part time, with an average age of 30, some eight years younger than the average age of the permanent workforce. In Cyprus, 13.1% of the working population was in temporary employment in 2006, with a significant proportion made up of female and migrant labour.

In the UK, only 8% of agency workers are students: agency work is more likely to be associated with migrant labour. One in seven agency workers have arrived in the UK since 2004, compared with one in 50 of the permanently-employed workforce. Migration was also reported to be significantly associated with agency work in Ireland.

The gender distribution of the agency workforce tends to be fairly even, except in countries where TAW is concentrated in certain sectors and occupations. In Austria and Germany, for example, TAW is most often used for blue-collar work in metalworking and manufacturing. Some three out of five German agency workers work in manufacturing, especially in 'elementary' occupations. In contrast in Sweden, banking and finance is the biggest user of TAW, accounting for 36% of agency positions, more than double that of industry or distribution. In Belgium, only a quarter of male agency workers are in white-collar employment compared to three quarters in blue-collar work; women are more evenly divided with 57% and 43% respectively. Some countries (e.g. Slovakia) also report that white-collar agency workers tend to be younger compared with blue-collar workers.

Another notable difference between countries concerns the duration of TAW (no data was provided by BG, CY, CZ, DK, ES, IE, LV, LT, MT, PT, SE; inn the latter case, this is because employment is not determined by the length of the assignment but by the stipulations of statute and collective labour agreements regarding permissible grounds for fixed-term employment). There is little data on how long workers remain in TAW, or with a single agency, though more is known about the average duration of assignments. These generally fall into two groups. In some countries, assignments are relatively short, though workers may be employed for some time in the sector through successive contracts. French agency workers remain in the sector for an average of 7.5 months and are employed by 2.7 agencies. The overall average duration of assignments is just 1.9 weeks, though somewhat longer for construction (2.9 weeks) and manufacturing and industry (2.3 weeks) than for the service sectors (1.4 weeks). The shortest average duration is in personal services and education, both with an average duration of 0.7 weeks, and the longest is in the energy sector (6.1 weeks). In Belgium, assignments tend to be relatively short, with a quarter lasting seven days or less and half for 30 days or less. However, three-quarters of TAW workers had been employed on temporary assignments for over a year in 2005, while nearly a third had been working in TAW for more than five years. Workers are also likely to be registered with more than one agency; only a third has one registration whereas 30% were registered with five agencies or more.

In Italy, a total of 1,263,697 leased-labour assignments were undertaken in 2007, involving 594,744 workers (equivalent to 222,000 full-time workers, or 1.4% of total full-time employment). Each worker undertook an average of 2.12 assignments a year, with an average duration of 44.6 days. This varies by sector, with an average of 29.6 days in commerce, 54.4 days in industry, and 78.6 days in the public services. In Norway, agency workers remain for an average of three months in the TAW sector with an average assignment of 163 hours, or around one month. In Luxembourg, most workers are in employment for between four and six months, though the period is longer in construction where there a fewer permanent positions available. According to the employers' association, around 80% of agency workers stay with one TAW firm.

According to the Irish trade union SIPTU, assignments tend to last for less than a year because unfair dismissal entitlements apply after one year's employment. In Finland, around two-thirds of agency workers were employed in the sector for less than a year in 2007, with an average assignment of 94 days. In Romania, one of the leading agencies reports that workers stay with the company for an average of three months. In Slovakia, 61% of agency workers were employed in the sector for fewer than six months in 2006. In Greece, most agency workers (52%) work for their agency for one month or less, and a further 25% for between one and three months. The average assignment in the Netherlands is 153 days. Hungarian agency workers remain with their agency for an average of 125 days, though this is slightly lower in the case of low-skilled workers at 118 days, compared to 151 for skilled workers and 155 for white-collar staff. Their average length of assignment is 96 days, or 79 for low-skilled workers and 104 and 129 for skilled and white-collar workers respectively. In Poland, 60% of assignments were for less than three months and 40% for between three months and a year, with few working longer than a year. In Germany in 2007, 12% of assignments were for less than one week;

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43% between a week and up to three months; and 45% three months or longer. Earlier analysis (2003) suggests the average length of employment of temporary agency workers in 2003 was 4.7 months, with a median of 2.1 months.

The second, smaller group is marked by a mix of short assignments and longer-term placements of over six months or a year. In the UK, according to LFS data for 2007, 70% of agency workers had been in their current job for over three months, 47% between six months and a year, 27% over a year and 13% for more than two years. This relatively high proportion of long-term assignments results in a mean tenure of 13.3 months, though the median figure is 4.5 (and the mode is one month). In Austria, a survey from the Salzburg region found that around half of agency workers were employed with an agency for more than 21 months. The average length of assignment was 18.6 months for men and 26.1 months for women. National statistics also show that, in 2007, blue-collar workers were placed on shorter assignments overall, with 64% working less than six months and 23% less than one month. In contrast, 52% of white-collar workers were assigned for more than 12 months, and only 9% for less than a month. In Estonia, one survey of agencies estimates that 18% of placements are for a period of between two weeks and two months, over half (55%) for between two and six months, 18% for between six months and one year, and 9% for one year or more. In Slovenia, most workers remain with the agency firm for between six months to a year, with assignments lasting between three and six months. According to one employer representative, around one-third of agency workers stay longer in the user firm and ultimately become directly employed after the year of placement allowed by law is expired.

Legal provisions and developments

Almost all countries have a clear statutory framework of TAW that regulates its use and includes definitions of TAW and related concepts such as ‘agency worker’ and the ‘user enterprise’. The exceptions are Denmark, where there is a preference for regulation through the social partners, and a group of smaller countries where TAW is generally new and underdeveloped – Bulgaria, Cyprus, Estonia, Malta, Latvia and Lithuania. There have been a number of proposals and dialogue about the introduction of a framework for TAW in these countries in recent years, a process that has been influenced by developments at EU-level (see ‘Developments in the NMS’ below).

Developments in the NMS

In Bulgaria, there is no legal basis for ‘triangular’ employment. Agency work is therefore limited and likely to be offered under a contract for services, which also means that there is little regulation of working conditions. Both unions and employers have pressed for legislation, but disagreement over the details meant that proposals brought forward in 2007 and 2008 did not become law.

A similar situation applies in Estonia, though there is a licensing system in place. Sector growth led to number of proposals made in the draft Employment Contracts Act 2008, but legislation is not expected to take effect before 2010.

In Lithuania, the legal framework for TAW is also limited to licensing. Most agencies engaged in staff leasing document their activities as providers of other kinds of business services. The government began to draft a legislative framework for TAW in 2004, which was formally submitted to the social partners in April 2008. Again, however, it has been difficult to reach consensus over the details of regulation.

In Malta, the government has mooted the introduction of a law since 2006 in response to sector growth and concerns at potential abuses, but no specific proposals have emerged. Agency work is covered by general employment law, though there is also a requirement for agency firms to gain a licence as providers of recruitment services.

In Cyprus, temporary work is normally via fixed-term and seasonal employment and there is no distinct legal concept of TAW. There are certain requirements necessary to obtain a license as a 'private employment agency', which have been permitted since 1997, but these are essentially recruitment rather than TAW firms.

In Latvia, there are only a few dedicated TAW firms, or recruitment businesses that offer TAW. There has thus been no demand for specific legislation and TAW is governed by general commercial and labour law.

In other countries, the sector is regulated by distinct legislation, whether introduced as specific acts or as amendments to the wider labour code, in addition to general employment and commercial law. These are itemised under Table 4.

Table 4: *Principal means of legal regulation of TAW*

Regulation through separate legislation	
AT	1988 Temporary Employment Act (*Arbeitskräfteüberlassungsgesetz*, AÜG)
BE	Law of 24 July 1987 (also covers other forms of temporary work)
DE	Manpower Provision Act (*Arbeitnehmerüberlassungsgesetz*, AÜG) 1972, as revised 2002
ES	Law 14/ 1994, as amended 1995, 1999, 2001
GR	Law 2956/2001 (operating requirements for agencies and employment rights of workers); Law 3144/2003 (licensing system)
IE	Employment Agencies Act 1971, as amended 1993, 2003
IT	Articles 20–28 and Article 85 of Legislative Decree 276/ 2003 (replaced provisions of Law 196/ 1997)
SE	Act on Private Job Placement and Temporary Labour (*Lag om privat arbetsförmedling och uthyrning av arbetskraft*), 1993
UK	Employment Agencies Act 1973, Conduct of Employment Agencies and Employment Businesses Regulations 2003 (as amended, 2007), Gangmaster Licensing Act 2004.
Regulation within general employment code	
FR	Labour Code 1972 as amended (especially 2005)
FI	Employment Contracts Act (Chapter 1, section 7; Chapter 2, section 9) 2001
HU	2001: New title 'Labour Force Leasing' (*Munkaerőkölcsönzés*) inserted into Labour Code (amended 2006)
LU	Articles 131–134 and 411, 413 of Labour Code as codified 2006 (law first introduced 1994)
NO	Work Environment Act 1977 as amended 2000 (permitted TAW beyond traditional office work), 2005; Labour Market Act 76/2004
PL	Labour Code amendments 2003
RO	Law 53/2003: Amendment of Labour Code Title II ('The individual employment contract') and Chapter VII ('Employment through temporary work agencies')
SI	Law on Labour Relations 2003, as amended 2007
Combined approaches	
CZ	Permitted under Labour Code since 1 October 2004 and specifically regulated under Employment Act 2004
NL	Law first introduced in 1965. Current system is based on (a) Allocation of Workers by Intermediates Act (*Wet Allocatie Arbeidskrachten door Intermediairs*, WAADI) 1998 and the Flexibility and Security Act 1999; (b) Civil Code (art. 7:690) defines the contractual arrangements for TAW and stipulates that workers are entitled to a permanent contract after three years or after three consecutive fixed-term contracts (art. 7:668a). However, collective-agreement arrangements deviate from this system.
PT	(a) Decree Law 358/ 1989 (as amended 1996, 1999, 2003, 2007); (b) provision on short-term contracts also included in labour Code under Law 99/ 2003.
SK	(a) Act No. 5/2004 on employment services (licensing requirements); (b) Act No. 311/2001 on labour code (rules governing usage)

Source: *EIRO national centres.*

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The definition and legal status of TAW is a little more ambiguous in Ireland and the UK than in other countries, notwithstanding the provision of specific legislation for the sector, because of a distinction used in law between 'worker' and 'employee'. (See Arrowsmith, (2006), for information on the employment status of temporary agency workers more generally). In Ireland, relevant law generally covers temporary working whether in the form of casual, fixed-term or agency employment. Given this, and within the common law tradition, the courts have significant discretion to interpret the regulation of TAW, and may deem agency workers to be employees of the employment agency or of the user undertaking based on their view of the employment contract. In terms of individual employment rights, it is normally the party responsible for paying the agency worker's wages (usually the agency) who is deemed to be the employer, except in the case of unfair dismissal. The Labour Court has used this as a basis for rulings on TAW that define the end-user as the responsible employer in terms of equal treatment (notably in the 2004 case of a nurse assigned to Diageo, PTW/DET042). Somewhat similarly, there is no clear requirement under UK law for agency workers to be 'employed' by either the agency or the user company. Under the Conduct of Employment Agencies and Employment Businesses Regulations 2003, agencies must either engage workers under a contract for services or employ them under a contract of employment. UK courts have sometimes found there to be an implied employment contract between the worker and the agency or user firm. However this is decided on a case-by-case basis and is complicated by the triangular nature of the employment relationship. Basically, whether a temporary worker is an 'employee' (i.e. employed under a contract of employment) or a worker engaged under a contract sui generis (of its own kind) will depend in large part on the existence or otherwise of 'mutuality of obligation'. A contract of employment is likely to be deemed not to exist in circumstances where the employer is not obliged to provide the worker with work, and the worker is free, without penalty, to accept or reject any offer of work made to him or her by that employer; limited 'mutuality' is also likely to be demonstrated where the user company does not extend certain benefits such as sickness and holiday pay to agency workers (see, for example, James v. Greenwich Council, 2006). The situation is more complex still in the case of long-term agency work. In February 2007, the Employment Appeal Tribunal ruled that a claimant in an unfair dismissal case was neither an employee of Haringey Council nor of the employment agency. The judge in this case commented that 'the state of the law regarding the status of long-term agency workers is, in my view, far from satisfactory, but it will need legislation to change it'.

Changes in the law

The nature and content of the legal frameworks of each country are largely as reviewed in Arrowsmith (2006). However a number of countries have made changes in recent years (Table 5). The sometimes rapid expansion of the sector, especially where this has included large numbers of migrant workers, has heightened concerns over potential illegal activities such as tax evasion, safety practices (particularly in construction) and 'social dumping' in terms of wage rates and employee benefits. In countries such as Spain, which has a particularly high use of temporary working, there policymakers are also concerned with promoting greater job security and permanent employment.

Such considerations have contributed to a tightening of the regulatory system in some countries. For example, Finland has introduced measures concerning employee consultation and safety; Spain has introduced measures to limit successive contracting, Portugal and the Netherlands to strengthen enforcement, Slovakia to extend equal rights for agency workers over pay, and Norway and Sweden have introduced new licensing requirements. Legislation is also planned in Norway for the end of 2008 to make it illegal for user companies to use agency workers from unregistered firms. Perhaps the most thorough changes were introduced in Hungary in 2006 amidst concerns over undeclared work and the potential abuse of agency workers. First, the agency is now required to provide a user company with proof of agency workers' lawful status, such as employment contracts (including the agreed wages) and social security details, as well as evidence of agency registration. If an agency fails to meet the legal criteria or there is no appropriate employment contract, it will be assumed that an employment relationship exists with the user enterprise. This was intended to ensure that user enterprises also take responsibility for the lawful employment of agency workers. Second, agency workers are now entitled to equal pay with comparable permanent workers in the user company after six months. The amended law also prohibits any kind of ownership ties between the agency and the user enterprise in order to prevent companies setting up their own in-house agencies as a further measure against the use of TAW to drive down wage costs.

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In contrast, in countries such as Austria, Belgium, and France, where regulation is already strong, measures have been introduced to enable the more extensive use of agency work. In Austria, a major change was the opening of the public sector to TAW in 2005. First, a Health and Nursing Act (*Gesundheits- und Krankenpflegegesetz*, GuKG) allowed public-sector hospitals and nursing institutions to employ up to 15% of the workforce as agency workers. Second, an amendment to the AÜG extended its remit to agency workers hired out to companies run by authorities at each level of government (i.e. the federal state, the provinces or Länder, and locally), thus granting these workers equal pay with comparable permanent staff. The aim was to permit the use of TAW in the public sector whilst preventing wage dumping.

Table 5: *Regulatory changes to TAW since 2004*

Country	Date	Details
AT	2005	Amendment of 1988 Act to cover agency work in the public sector
BE	2005	Reasons for use of TAW extended to facilitate inclusion of disadvantaged workers
CZ	2006	Labour Code renewed with only minor amendments in terms of TAW
DK	2007	Removal of licensing requirements for temporary work agencies in the nursing sector
ES	2006 2007	Law 43/2006 limits successive temporary contracts; 32/2006 limits TAW in construction on safety grounds; 30/2007 maintains limitations on TAW in public sector
FI	2006 2007	New rules for safety responsibilities concerning sub-contractors (Contracting Out Act, 1233/2006); use of TAW to be an item for consultation and negotiation (2007 Cooperation Act)
FR	2005	Reasons for use of TAW extended from economic situation of user company to personal factors of agency workers (to facilitate inclusion of disadvantaged workers and further workers' training); agencies can also offer recruitment and job placement services (FR0511101N)
HU	2006 2007	2006 amendment to Labour Code requires agencies to provide proof of workers' lawful status, stipulates equal pay to apply after six months, bans in-house agencies, and introduces a probation period for agency workers. Further minor changes came in 2007, e.g. agencies were excluded from subsidised employment scheme for the payment of casual workers.
IT	2007	Art. 1, sub-sn. 46 of Law 247/2007 abolished the provision for indefinite staff leasing which was introduced by the 2003 decree: contracts must now therefore be fixed-term.
MT	2008	Minor tax and other changes to encourage unemployed to take TAW
PL	2005 2007	Law amended in 2005 to regionalise registration and in 2007 to reinforce user-company safety obligations
PT	2007	Law 19/2007 reinforces role of the TAW regulatory agency, requires licences to be renewed annually, requires agencies to employ at least 1% (up to 50) staff on permanent, full-time basis, raises maximum assignment from one to two years (PT0709039I).
NL	2006	New 'NEN-norm' (4400-1), developed by the ABU and trade unions, to tackle tax evasion and illegal activities by agencies*
NO	2008	Law 2008-06-04 requires registration of agencies with the Labour Inspectorate; it was introduced amidst concerns at tax evasion and 'social dumping', especially via use of migrant labour.
RO	2004/5 2007	Various revisions to regulations and licensing requirements in 2004 and 2005; health and safety obligations were reinforced in 2007
SE	2007	Voluntary 'authorisation' of agencies by employer association together with union confederation (LO) and Salaried Employees' Union (HTF) was made mandatory
SI	2006 2007	Minor amendments, e.g. distinction between employment and temporary work agencies, 2006; reinforcement of health and safety obligations 2007
SK	2007	Qualification period for equal pay reduced from six to three months.
UK	2004 2007	Gangmasters Licensing Authority established in 2004 to license and regulate labour providers in the agriculture, horticulture, shellfish and associated processing industries. Also, new 2007 Regulations introduced, among other changes, rights for agency workers concerning charges for services such as accommodation and transport

Source: *EIRO national centres.*
Note: **A 'NEN Norm' is an instrument of industry standardisation at national level in the Netherlands, comparable to the European-level CEN Standards. Agencies can voluntarily have themselves checked on compliance with all regulation on agency work in the Netherlands. It is not in itself a legal requirement.*

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Further significant developments are also anticipated in Ireland and the UK. In the UK, the government announced in May 2008 (UK0806039I) that it had reached agreement at national level with the social partners – the Trades Union Congress (TUC) and the Confederation of British Industry (CBI) – on proposals to introduce rights for agency workers for equal treatment with comparable directly employed staff. This will apply after 12 weeks in a given job. In Ireland, the government is committed under the current national agreement, 'Towards 2016', to introduce a new Employment Agencies Regulation Bill to replace the existing 1971 Employment Agencies Act. The proposed new law will clarify the employment status of agency workers for the purposes of employment rights legislation. It will also introduce a 'Monitoring and Advisory Committee', inclusive of social partner representation, to oversee and regulate employment agencies. A new statutory code of practice will also be introduced which must be observed as a condition of licensing. The law has so far been delayed as trade unions and opposition political parties have pressed for equal treatment rights to be added concerning pay and terms and conditions of employment for agency workers. The Review and Transitional Agreement, published in September 2008, confirmed that the Bill would be produced by the end of the year to give effect to the EU Directive as well as the commitments agreed in section 21 of 'Towards 2016'.

Social dialogue and collective bargaining

Most countries have trade associations for temporary agency firms that exist to promote and self-regulate agency work, or employer organisations that, in addition to such activities, also participate in collective bargaining. Trade representatives may also perform a lobbying role in terms of developing the law; in some cases (Bulgaria, Ireland and Lithuania) they are formally involved in tripartite discussions around the legal regulation of TAW. Only four countries have no collective employer body: Cyprus, Latvia, Malta and Romania. In contrast, trade union organisation is relatively under-developed, though collective agreements do form an important means of regulation in many countries.

The social partners

There are 10 countries with employer organisations that conduct collective bargaining with trade unions (Table 6). These are all members of the EU15.

Table 6: *Temporary agency employer associations that perform collective bargaining*

Country	
AT	The Austrian Federal Economic Chamber (Wirtschaftskammer Österreich, WKÖ), has a TAW section within its Association of the General Crafts and Trade (**Allgemeiner Fachverband des Gewerbes**). Since membership of WKÖ is obligatory, all 500 agencies are members.
BE	The 'Federation of HR Service Providers, Including Temporary Agency Work' (Fédération des partenaires de l'emploi/ Federatie van partners voor werk, Federgon) represents around 76 agency work companies (of 158 active in 2007).
DE	German Association of Private Employment Agencies (Bundesverband Zeitarbeit, BZA), with 2,200 companies; Association of German Temporary Employment Agencies (Interessengemeinschaft Deutscher Zeitarbeitsunternehmen, iGZ), with 1,250 companies (estimated to supply approximately 185,000 agency workers); and the Employers' Association of Medium-Sized Personnel Service Companies (Arbeitgeberverband Mittelständischer Personaldienstleister, AMP), with more than 1,000 agencies as members.
DK	Multi-employer bargaining on TAW is conducted under the auspices of Danish Business (Dansk Erhverv, DE), formed in 2007 by a merger of Danish Commerce and Services (Dansk Handel og Service, DHS) and the Danish Chamber of Commerce (Handel, Transport og Service – Interesseorganisation, HTSI). Members include 200 agencies, which account for about 60% of sector revenue, and three TAW federations. One of these is the Association of Nurse Temp Agencies in Denmark (Foreningen af Sygeplejevikarbureauer I Danmark, FASID), which alone conducts is own collective labour agreements.
ES	The National Association of Temporary Work Agencies (Asociación Estatal de ETTs, AETT), with 72 SME members; the Association of Large Temporary Work Agencies (Asociación de Grandes Empresas de Trabajo Temporal, AGETT), which split from AETT and has the six largest agencies and their subsidiaries; Spanish Federation of Temporary Work Agencies (FEDETT), with 70 smaller members, particularly in the south and Catalonia.
FI	The Private Employment Agencies Association (Henkilöstöpalveluyritysten Liitto, HPL) has about 180 member companies.

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Table 6: *Temporary agency employer associations that perform collective bargaining (cont'd)*

Country	
FR	The Union of Temporary Work Agencies (Syndicat des Entreprises de Travail Temporaire, SETT) became Temporary Agency Work, Services and Employment Industry Professionals (Professionnels de l'intérim, services et métiers de l'emploi, PRISME) after the January 2005 law. It has nearly 6,500 agencies as members, representing 90% of the industry's turnover.
IT	The National Association of Work Agency (Associazione Nazionale delle Agenzie per il Lavoro, Assolavoro) comprises 62 firms out of a total of 81 authorized agencies, which account for 98% of overall sector business.
LU	The Union Luxembourgeoise des Entreprises de Travail Intérimaire (ULEDI) was formed in 1994. It has 19 members (of 42 firms), representing 62% of TAW turnover.
NL	The Algemene Bond Uitzendondernemingen (ABU) has about 360 members (over 60% of the market); the Nederlandse Bond voor Bemiddelings- en Uitzendondernemingen (NBBU) has about 500 members, mainly SMEs.
SE	Swedish Staffing Agencies (**Bemanningsföretagen**), with about 100 member companies

Source: *EIRO National Centres*

Trade associations that have no direct collective bargaining role are itemised in Table 7. As indicated above, these bodies may perform an important role in the regulation of the sector, through forms of self-regulation such as enforcing codes of practice, or through influencing the development of law. Ireland's association, for example, is represented through the Irish Business and Employers' Confederation (IBEC) at the national intersectoral negotiations, and the Latvian organisation is currently involved in tripartite negotiations to introduce a legal framework for TAW. Note also that the two Danish associations are members of DE, which does participate in collective bargaining on TAW.

Table 7: *TAW trade associations with no collective bargaining mandate*

Country	
AT	The Austrian Association of Employment and Placement Agencies (Österreichischer Verband Zeitarbeit und Arbeitsvermittlung, VZA) acts as a business association for agencies and recruitment firms. It has around 45 members.
BG	BG Staffing has three members: AJILON (an Adecco subsidiary), Consulteam Bulgaria (owned by Vedior, taken over by Randstad in 2008), and Manpower.
CZ	The Association of Providers of Personnel Services (Asociace poskytovatelů personálních služeb, **APPS**) was founded by the four largest agencies in 2002. It acts as a professional development organisation and seeks to promote lawful agency work, including through its Code of Ethics.
DK	The Association of Temporary Work Agencies in Denmark (Foreningen af Vikarbureauer i Danmark, FVD) and Temporary Work Agencies Certified in Denmark (Vikarbureauer Certifiserede i Danmark, VICE), set up by Adecco, Manpower, Randstad and Temp-Team. Together they organise 35 agency firms. However both are members of the employer association, the Danish Chamber of Commerce (now DE), which negotiates collective labour agreements on behalf of their member firms.
EE	The Estonian Staffing Agency Association (Eesti Personalirendiettevõtete Liit, **EPREL**) has six member firms (c. 12% coverage) with around 500 workers (c. 18%).
GR	The Association of Temporary Employment Agencies (Ένωση Εταιριών Προσωρινής Απασχόλησης και Στελέχωσης Επιχειρήσεων, ENEPASE) acts to promote legal agency work in Greece.
HU	The Hungarian Federation of Personnel Management Advisors (Személyzeti Tanácsadók Magyarországi Szövetsége, SZTMSZ) has a section for TAW firms (with about 25 members).
IE	The National Recruitment Federation (NRF) was formed in 1971 and has around 100 agencies as members.
LT	The Temporary Employment Agencies' Association (Laikino įdarbinimo įmonių asociacija, LIIA) was formed in 2007 with 7 (now 12) members.
NL	The Association of International Employment Agencies (Vereniging van Internationale Arbeidsbemiddelaars, VIA) was formed in 2004 and represents 34 companies specialising in migrant agency labour.
NO	Prior to 2000, when the sector was strictly regulated, the main companies were organised in an independent business association (the Temporary Work Agencies' Association, Autoriserte Vikarbyråers Forening, AVF). Today, agencies form a branch within the Service section of the Confederation of Norwegian Enterprise (Næringslivets Hovedorganisasjon, NHO). NHO Service estimates up to 90% coverage in terms of agency employees.

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Table 7: *TAW trade associations with no collective bargaining mandate (cont'd)*

Country	
PL	The largest agencies are affiliated to the Temporary Staffing Agencies Association (Związek Agencji Pracy Tymczasowej, ZAPT). The Association of Employment Agencies (Stowarzyszenie Agencji Zatrudnienia, SAZ) has a broader membership of employment and temporary work agencies.
PT	The Portuguese Association of Private Sector Employment Companies (Associação Portuguesa das Empresas do sector Privado de Emprego: APESPE) has 50 members.
SI	The Association of Temporary Work Agencies (Združenje agencij za zaposlovanje, ZAZ) was formed in 2007 by the 20 largest agencies.
SK	The Association of Personal Agencies of Slovakia (Asociácia personálnych agentúr Slovenska, APAS) consists of the nine MNC agencies in the country.
UK	The Recruitment and Employment Confederation (REC) was formed in 2000 by a merger of two well-established associations. It has a broad membership of 8,000 recruitment and TAW firms and 6,000 individuals; the estimated sector coverage is 50%.

Source: *EIRO national centres*

Trade union organisation and representation

Few countries have a specific trade union, or union section, for agency workers. Only three examples of TAW unions were found. In France, on 3 October 1968, le Syndicat National des Salariés des Entreprises de Travail Temporaire (affiliated to the CGT) signed the first agreement with an agency firm (Manpower). The union is now called the Union Syndicale des Intérimaires (USI-CGT) and it is the only trade union specifically for temporary agency workers in the country. In Italy, the three trade union confederations – the General Confederation of Italian Workers (Confederazione Generale Italiana del Lavoro, CGIL), the Confederazione Italiana Sindacati Lavoratori (Italian Confederation of Workers' Unions, CISL) and the Unione Italiana del Lavoro (Union of Italian Workers, UIL) – each created internal structures to represent 'atypical' workers (including agency workers) at the end of the 1990s. Unlike other union sections, their memberships are not confined to particular sectors of employment. These are called, respectively, New Identity of Work (Nuove Identità di Lavoro, NIDIL-CGIL), Worker Association of Atypical and Temporary Workers (Associazione Lavoratori Atipici e Interinali, ALAI-CISL), and Coordination for the Employment (Coordinamento per l'Occupazione, CPO-UIL). Membership levels (2007) are reported to be 32,799 for Nidil and 27,698 for Alai, around a third of whom are agency workers (no figures are available for CPO). The third country is Greece, where the Panhellenic Union of Employees Providing Labour to Third Parties (Πανελλήνιος Σύλλογος Υπαλλήλων με Παραχώρηση Εργασίας σε Τρίτους, PASYPET) was established by agency workers working for the National Bank of Greece. It has about 70 members and intends to recruit agency workers in other sectors.

The more usual situation is that agency workers are normally free to join the relevant union for the sector, occupation or workplace in which they are placed. Ten countries were able to provide estimates of trade union density for TAW workers, half of which report low and half report high figures for membership density. In Slovenia, one of the major union confederations says it has around 870 agency workers as members, which is 0.18% of the total. The official figure in France is 0.9%. In Italy, estimated density is around 1.4%–1.7%. In Luxembourg, union estimates put the figure at 5%. In Austria, union density is also put at 5% for white-collar workers; blue-collar workers are estimated to have a slightly higher density of 5%–10%. The average in the Netherlands is 7%. In Sweden, 7,347 agency workers are organised in the white-collar union, which also means a density of 17% for such workers. The density for blue-collar workers is estimated to be much higher, at 50%–60%, despite their shorter average length of assignments, which might reflect higher exposure to trade unions in the user companies. High levels of union membership density were also reported in three other countries. The Finnish estimate is 44%; in Denmark, the union estimates a figure of around 50%; and in Belgium the relevant sector unions collective organise around 60% of agency workers.

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Union presence was reported to be particularly low in the newer Member States. Respondents in the following countries said questions concerning union density and collective bargaining coverage were either not relevant, or estimated the figures to be close to zero: Bulgaria, Cyprus, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Romania, Slovakia and Slovenia. In Norway, union density was also reported to be likely 'very low', as was collective bargaining coverage given the absence of a collective agreement for the sector and only isolated incidences of company-level agreements (see below). However some sector agreements, such as construction (which is extended across the sector) will also cover TAW firms in that sector.

A number of unions have initiated campaigns to organise and represent agency workers and to draw attention to TAW more generally. In Germany, all the major unions have established specific bargaining associations for TAW in order to recruit agency workers and to enforce equal treatment arrangements in collective and works agreements. Some Dutch unions have also established special branches for TAW. An important example is FNV Flex which is part of the largest private sector union FNV Bondgenoten. In Luxembourg, the union Onofhängege Gewerkschaftsbond Lëtzebuerg (OGB-L) has a department for services and energy that assumes overall responsibility for TAW, and the Swedish Trade Union Confederation and the white-collar union Unionen have special divisions concentrated on blue- and white-collar agency workers respectively. In Norway, the construction union Fellesforbundet is running a recruitment campaign for migrant workers, including agency workers. The metalworkers' union (Odborový svaz KOVO, **OS KOVO**), the biggest trade union in the Czech Republic, continuously monitors agency employment with a view to preventing 'social dumping'.

Unions have also implemented political campaigns and popular awareness-raising initiatives around TAW. In addition to local and regional initiatives, the Belgian General Federation of Labour (Fédération Générale du Travail de Belgique/Algemeen Belgisch Vakverbond, FGTB/ABVV) organises an annual 'interim day' to raise awareness about the working conditions and rights of agency workers. Malta's largest union, the General Workers' Union (GWU) launched a campaign in 2007 around individual contracts and employment rights. This included awareness raising activities, an organising campaign for atypical workers, and promotion of a model contract to employers' associations. The five French union confederations each have specific TAW sector bodies. Union campaigning is lessened by relatively high levels of legal protection, but in May 2008 the Confédération générale du travail (CGT) launched a campaign around the 'ten fundamental rights of the unemployed', which embraced unstable employment.

Lobbying by the Slovak Confederation of Trade Unions (Konfederácia odborových zväzov Slovenskej republiky, KOZ SR) contributed to the 2007 legal change to reduce the equal treatment qualification from six to three months. In Ireland, unions have pushed for specific legal rights for agency workers under the national agreement. The largest union, the Services Industrial Professional and Technical Union (SIPTU), also launched a campaign in late 2007 around potential exploitation of agency workers and maintenance of wider labour standards. Similarly, in the UK, TAW is at the forefront of Trades Union Congress (TUC) campaigns around 'vulnerable workers', which included establishing a 'know your rights' hotline for agency workers in 1999 and a Commission on Vulnerable Employment in 2007 (UK0805019I). Its campaign for equal rights achieved some success in 2008 (UK0806039I). Individual unions such as the Communication Workers' Union (CWU), which organises workers in call centres, have also maintained vigorous campaigns around TAW.

The regulation of TAW by collective bargaining

There are four main ways that TAW can be regulated by collective bargaining or social dialogue. The most general mechanism is the national intersectoral level, which includes agreements and understandings reached between the highest-level social partners and governments that might influence the development of law. This is significant in Belgium and Spain, and more recently Ireland, Poland and the UK, though the latter is a more particular and specific case (see below). In Sweden, TAW is covered by the same inter-professional arrangements for social insurance (e.g. pensions, redundancy support), based on collective agreements, that apply to other sectors. The second, and in many cases most significant level, is by collective bargaining within the TAW sector itself. Most countries that have traditions

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of sector-level bargaining have adopted this approach, especially where there is also strong use of TAW. Sector-level bargaining is often supplemented at the third level, within TAW firms. The fourth is collective bargaining in sectors in which user-companies are based, which is also an important means of regulating agency work in several countries.

It should be noted that where there is a legal framework for the definition of TAW (and component categories 'agency worker' and 'user enterprise'), these definitions are adopted or assumed by collective agreements. In Sweden, however, the national collective agreement for white-collar workers and 'academics' differentiates three types of agency workers: 'stationary clerks', i.e. in the agency's own administration; 'clerks on contract by tender', who are placed in a specific client company, normally for a longer-term assignment; and 'ambulatory clerks', who are leased out to different client companies. (The classification 'academics' is used in Sweden to refer to staff groups with higher educational qualifications that are organised by the Swedish Confederation of Professional Associations, SACO). Where there is no statutory definition, neither is there any established or generally recognised definition under collective bargaining, except in the case of Denmark where the labour market is normally regulated by collective agreement rather than by law.

The use of collective bargaining to regulate TAW is summarised in Table 8, and each level is discussed in turn in the following sections below. It is evident that there is no role for collective bargaining in the regulation of TAW in the new Member States. In contrast, 10 of the EU15 have sector-level bargaining which is in most cases supplemented by collective agreements at lower levels. Several countries also have a role for social dialogue at the intersectoral level.

Table 8: *Regulation of TAW by collective bargaining*

Country	Inter-sector/ Tripartite	TAW sector	TAW company	Other sectors	Country	Inter-sector/ Tripartite	TAW sector	TAW company	Other sectors
AT		✓		✓	**IT**		✓		✓
BE	✓	✓	✓	✓	**LT**				
BG					**LU**		✓		(✓)
CY					**LV**				
CZ					**MT**				
DE		✓	✓	✓	**NL**		✓		✓
DK		✓	✓	✓	**NO**				✓
EE					**PL**	✓			
ES	✓	✓		✓	**PT**				
FI		✓	✓	✓	**RO**				
FR		✓	✓		**SE**	✓	✓	✓	✓
GR					**SI**				
HU					**SK**				
IE	✓			✓	**UK**	(✓)		✓	

Note: *UK intersectoral level refers to a single agreement between the CBI and TUC rather than to collective bargaining as such.*
Source: *EIRO National Centres*

Intersectoral bargaining and social dialogue

The relevance of the intersectoral level is most usually its influence on the law. In Spain, for example, Law 43/2006, which placed limits on successive TAW contracting, followed the terms of the Agreement for the Improvement of Growth and Employment (Acuerdo para la Mejora del Crecimiento y el Empleo, AMCE) of 9 May 2006. This agreement arose in a context of concerns over youth unemployment and job insecurity and resulted from bargaining by the social partners in the Social Dialogue Commission (ES0604019I). In Belgium, agency workers have the same rights and

entitlements as 'general workers' and other temporary workers under the law and through collective agreements concluded at sector level or through the National Labour Council (Conseil National du Travail/Nationale Arbeidsraad, CNT/NAR). Collective agreements reached in the CNT/NAR apply to all workers in the private sector and thus also directly influence the terms of specific sectoral agreements.

In Poland, the tripartite Commission for Social and Economic Affairs in 2007 debated the length of time for which a temporary worker should be able to remain with a single user employer. This resulted in proposals that user companies notify any unions of their plans to use TAW and that unions be able to negotiate over how long agency workers may be employed within the range of six to 18 months. However, the change of government later in the year led to Parliament debating new proposals such that the period may be lengthened to 18 months without provision for collective bargaining. In Ireland, TAW is addressed at national level under the arrangements for social partnership, which involves national agreements between the government, the Irish Business and Employers Confederation (IBEC), and the Irish Congress of Trade Unions (ICTU). The current national agreement, 'Towards 2016', includes a commitment by the government to introduce an Employment Agencies Regulation Bill. These proposals have been subject to much discussion between the government and the social partners and, as noted above, are likely to become law in 2009.

In contrast, tripartite arrangements are not systematic in the UK. The first national-level agreement on TAW was reached between the government, the TUC and the CBI in May 2008 (UK0806039I). The joint declaration included an agreement that agency workers be entitled to equal treatment with directly employed staff (except concerning pension benefits) after 12 weeks in a given job. In France, there is no inter-sectoral agreement specifically regulating TAW, although a national agreement on the reform of the labour market, signed in January 2008 (FR0802049I) did make provision for agency firms to operate as more general 'umbrella' companies

Collective bargaining at TAW sector level

In the Netherlands, the legal framework for TAW permits deviation by collective agreement in some areas; hence, the role of collective bargaining is very important. There are two collective agreements for TAW. The ABU agreement, which covers 90% of workers, is declared universally binding except for those firms which want to be exempt and have signed the NBBU agreement. The agreements cover issues such as pay and benefits, working time and training. An important element of the ABU agreement is the introduction of a staged system for the accumulation of employment rights, which establishes equal pay with permanent workers after 26 weeks employment in a user company. In Germany, the AÜG also permits deviations from the provisions for equal treatment made under the law, providing these are made by collective agreement. There are currently three competing sector-level collective agreements. Unions affiliated to the DGB have set up a bargaining association for TAW that has negotiated collective agreements with the BZA and iGZ; there is also a collective agreement between the AMP employers' association and the CGZP (Christliche Gewerkschaften Zeitarbeit and PSA). These agreements set their own rules on pay, working time, holidays and working conditions in terms conventional for a sector agreement and there is no reference to the need to make comparisons to the terms and conditions that apply in user companies.

Elsewhere, collective agreements tend to build on the law rather than set the parameters for deviations from it. Collective agreements for the TAW sector in Belgium are concluded through the joint committee (Commission paritaire/ Paritaire comite) structure, in this case number 322. This committee is established along the following lines:

- Federation of Temporary Work Enterprises (Fédération des partenaires de l'emploi/ Federatie van partners voor werk, FEDERGON) – nine mandates;
- Belgian Federation of Employers (Fédération des Entreprises de Belgique/Verbond van Belgische Ondernemingen, FEB/VBO) – six mandates;

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- Confederation of Christian Trade Unions (Confédération des Syndicats Chrétiens/Algemeen Christelijk Vakverbond, CSC/ACV) – seven mandates;
- Belgian General Federation of Labour (Fédération Générale du Travail de Belgique/Algemeen Belgisch Vakverbond, FGTB/ABVV) – seven mandates;
- Federation of Liberal Trade Unions of Belgium (Centrale Générale des Syndicats Libéraux de Belgique/Algemene Centrale der Liberale Vakbonden van België, CGSLB/ACLVB) with a single mandate.

Collective agreements may cover all agency workers (as in the case of wage conditions) or apply only to particular industries where arrangements vary between sectors (as in the case of retirement benefits). In 2007, a total of 32 collective agreements were concluded in joint committee no. 322 (BE0803029Q). These agreements concerned improvements to pension benefits for agency workers in several sectors; training; the end-of-year benefit; benefits in case of accident or illness; other allocations; and the creation of a safety fund. These TAW agreements do not make reference to employment terms and conditions in user companies, though equal treatment is stipulated by law and may be referred to in the sector or company-level agreements that cover the workplaces to which agency workers are assigned.

Collective bargaining is also very well established in France, and the regulatory role of the social partners is underpinned by the responsibility that sector-level institutions have in the management of social security and welfare. For TAW, these include the Temporary Work Training Insurance Fund (Fonds d'Action Sociale du Travail Temporaire, FAF-TT), the Professional Fund for Employment of Temporary Work (Fonds Professionnel pour l'Emploi du Travail Temporaire, FPE-TT), the Temporary Work Social Action Fund (Fonds d'Action Sociale du Travail Temporaire, FAS-TT), plus other welfare and pension arrangements. The first collective agreement in the sector dates back to 1972 and was based on a company agreement at Manpower. Subsequent agreements have made an important contribution to the regulation of the sector by developing and supplementing the law. For example, the September 2005 agreement set out the precise framework for the implementation of the two new scenarios in which TAW is permitted under the social cohesion law of 18 January 2005. Other significant initiatives agreed at sector level have concerned the representation of agency personnel (1988), the TAW supplementary pension fund (1991), creation of the Social Action Fund (1992), health and safety (2002), vocational training (2004 and 2006), and diversity and non-discrimination (2007).

In Luxembourg, the main regulatory framework concerning pay and benefits, working time and representation is established by the law, but an important objective of the sector collective agreement is to help the social partners work against unfair competition based on poor or unlawful working conditions. The agreement is thus declared legally and generally binding on all TAW firms by national decree. The agreement is signed between the Union Luxembourgeoise des Entreprises de Travail Intérimaire (ULEDI) for the employers, and the trade unions Onofhängege Gewerkschaftsbond Lëtzebuerg (OGB-L) and Lëtzebuerger Chrëschtleche Gewerkschaftsbond (LCGB). The most recent agreement was reached in 2007, amending various provisions of the 1998 collective agreement. In particular, it addressed anomalies around holiday entitlements, introduced new regulations around overtime work and health and safety, and made provision for the establishment of a training fund for the TAW sector. Similarly, the law is the main means of regulation in Spain, but collective agreements at sector level also play an important part in establishing minimum terms and conditions for agency workers' employment. There have been five such agreements since the legalisation of TAW in 1994. The fourth agreement was signed in 2004 and applied for three years. The signatories were the three employers' associations together with the Trade Union Confederation of Workers' Commissions (Comisiones Obreras, CC.OO), and the General Workers' Confederation (Unión General de Trabajadores, UGT). In addition to addressing pay and working time for agency workers, it introduced among other measures a commitment by the trade unions not to pursue clauses that might hinder the use of TAW in other sectoral agreements (ES0405108F). This was restated in the fifth and current agreement, signed in 2007.

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Collective bargaining is also an important means of regulation in Austria, where there are two sets of agreement covering blue-collar and white-collar agency workers. The former specifically concerns TAW, reflecting its strong use in metalworking, and was first concluded in 2002 (AT0202202N). It sets a national minimum wage that is applicable even when the worker is not hired out, and stipulates that pay on assignment must be based on the collectively agreed rates due to comparable employees of the user enterprise. White-collar agency workers fall under the 'unspecific' agreement for the 'crafts and trade' sector (Allgemeines Gewerbe) which has similar provisions on pay, if fewer protections in areas such as dismissal. Sweden also has a dual system of collective bargaining at sector level, with one national agreement covering the salaries and general terms of employment of blue-collar workers and another for white-collar workers and academics. The Swedish Staffing Agencies association signs both agreements, with the Swedish Trade Union Confederation acting for blue-collar workers and Unionen for white-collar workers. Unionen is the result of a merger between the Salaried Employees' Union (Sveriges Handelstjänstemannaförbund – HTF), and the Swedish Union for Technical and Clerical Employees (Svenska Industritjänstemannaförbundet – Sif), in 2007. Academics are represented by the Swedish Association of Graduate Engineers (**Sveriges Ingenjörer**), and come under the Unionen agreement. The white-collar agreement guarantees a monthly pay based on 133 hours, rising to 150 hours after 18 months employment. The agreement also covers compensation for overtime, displaced working time, on-call duties, travelling time compensation, holiday, sick pay, and reassignment and negotiating procedures. The blue-collar agreement is based on the principle that the agency worker should be paid the same wage as permanent workers at the client company. Agency workers are also entitled to a guaranteed wage for the times they are not leased to a client, based on 90% of their average income during the prior three months. There are also minimum pay rates that apply while workers undergo training. The agreement also covers issues such as working time, travelling time compensation, leave of absence, sick pay, holiday, the working environment, vocational and educational training, as well as negotiation and collective action procedures. In addition, there are supplementary agreements for employees in health care and schools, and local agreements may also be reached within agencies, which normally address employee benefits such as leave.

In Finland, sector- and company-level collective bargaining is effectively encouraged by the terms of the Employment Contracts Act 2001, which first provided the legal framework for the regulation of TAW. Chapter 2, section 9 of this law states that in the absence of a collective agreement in the agency, or if the agency was not required to observe a collective agreement with erga omnes (in relation to everyone) applicability, the collective agreement applicable to the user company must be observed. There are now three sector-level collective agreements for TAW that are generally binding in their fields, and many agencies have also reached their own collective agreements with national trade unions. A collective agreement between HPL and the Federation of Special Service and Clerical Employees (Erityisalojen Toimihenkilöliitto, ERTO) covers TAW in the clerical, book-keeping and IT sectors. It regulates pay, hours and sickness benefits and includes, amongst other areas, rules governing the start and termination of contracts. The agreement also recently introduced improvements for parental leave and vocational training entitlements. HPL has also reached agreement with the Finnish Musicians Union (Suomen Muusikkojen Liitto, SML) which addresses a range of employment matters including contract regulation, pay and hours of work, leave, and health cover. Finally, the Services Employers' Association (Palvelualojen Toimialaliitto ry) has a nationwide collective agreement with the Chemical Workers' Union (Kemianliitto) that is binding for agency workers in that industry. It addresses pay, working time, health matters and rights to information and consultation, including union representation rights.

In Denmark, the most important form of regulation of TAW is usually the sector and company agreements that apply to the user companies concerned, but there have also been a number of multi-employer agreements in Denmark that apply to segments of TAW. The employers association Danish Commerce and Services (Dansk Handel og Service, DHS) has concluded general agreements covering TAW with unions in the educational sector and with the United Federation of Danish Workers (Faligt Fælles Forbund, 3F) which covers workers in building and construction, storage and transport, production and agriculture. It has also reached agreement with the Danish Food and Allied Workers' Union (Nærings- og Nydelsesmiddelforbundet, NNF); the Danish Nurses' Organisation (Dansk Sygeplejeråd, DSR); the Danish Trade Union of Public Employees (Fag og Arbejde, FOA); and the Danish Association of Social Workers (Dansk Social

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Rådgiverforening, DS). The DHS merged with HTSI in 2007 to form Danish Business (Dansk Erhverv, DE). Later in the year DE signed an agreement with the Union of Commercial and Clerical Workers in Denmark (Handels og Kontorfuntionærernes Forbund, HK) which reduced the qualifying periods for agency workers to be eligible for employment benefits such as maternity entitlements. Previously, agency workers had to be employed in the same job for nine months before gaining such entitlements; the agreement reduced this to a total of 1,443 work hours within a three-year period.

In Italy, the national sector agreement (contratti collettivi nazionali di lavoro, CCNL) for temporary agency workers (referred to as 'leased workers' since the 2003 decree) is very important in the regulation of this form of work. The most recent agreement between Assolavoro and the union sections for leased workers was signed on 23 July 2008 and introduced a number of important terms and innovations (see 'Main terms of the 2008 sector agreement in Italy', below).

Main terms of the 2008 TAW sector agreement in Italy

Information rights Agencies are obliged to inform territorial trade unions when at least 20 contracts are involved.

Trial and notice periods Trial periods are fixed as one day every 15 calendar days, up to an extended maximum of 13 days for assignments longer than six months. Notice was introduced for the first time in the case of worker resignations, calculated from the 16th day of assignment as one day for every 15 days of assignment (up to a maximum of seven, 10 and 20 days according to the worker's job classification).

Permitted assignment extensions Increased from four to five, for a maximum of 36 (previously 24) months.

'**Stabilisation**' This agreement regulates the 'stabilisation' of TAW contracts to open-ended arrangements or the first time. Leased workers must be hire on open-ended contracts if assigned for 36 months to the same user firm (or 42 months if there have been at most two extensions in the first 24 months), or after 42 months of assignment to different user firms, provided that there has been no interruption (of at least 12 continuous months) due to worker refusal of a job offer. The agency is then bound to keep him/her as an employee for at least 12 months, after which, if the agency cannot maintain the employee further because of a lack of work, he or she will receive an 'availability allowance' of EUR 700 a month for six months (seven months for workers aged over 50), of which 50% is paid by the agency and the remaining 50% by the Bilateral body for the income support and training of leased workers on open-ended contracts (Ente Bilaterale per il Sostegno al Reddito e la Formazione dei Lavoratori in Somministrazione a Tempo Indeterminato, EBIREF). After this, the employment relationship may be dissolved in the absence of work opportunities.

Benefits A sectoral fund has been created for supplementary social security, financed by contributions from the worker, the agency, and the bilateral bodies. In addition, female workers who do not qualify for the INPS maternity allowance now receive a lump-sum payment of €1,400 from the National Bilateral Temporary Labour Body (Ente Bilaterale Nazionale per il Lavoro Temporaneo, EBITEMP). The agreement also increases EBITEMP benefits for the following items: accidents, up to a daily allowance of €35 (with maximum duration extended from 90 to 180 days after end of assignment); healthcare, from 60% to 100% reimbursement of healthcare fees; and income support, a one-off payment of €700 to workers unemployed for 45 days and who have worked for at least 6 months in the past 12.

Health and safety Obligations between leasing agency and user firm are clarified and strengthened: the leasing agency must instruct the worker on the general risks of the sector to which they have been assigned while the user firm must provide training during the first two hours of work on the specific risks connected with the job.

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The coverage of these sector agreements is often high as a result of the number and size of the companies committed to the agreement, and may also be due to the effect of extension requirements under the law. Spanish labour law obliges all TAW enterprises to be covered by the relevant sector agreements, and collective bargaining coverage is thus universal. The same applies in Luxembourg, since the sector collective agreement is declared binding as a general obligation. There is also universal coverage in Austria because all agencies are obliged to be members of the WKÖ. In the Netherlands, as noted above, the ABU collective agreement is declared universally binding (except for those firms that are officially exempted or that have signed the NBBU agreement) and this covers 90% of agency workers. In Germany, the three collective agreements for the TAW sector ensure near-universal coverage of collective bargaining; the same applies in Italy; coverage is also universal in Belgium; and the figures provided for Finland and Denmark are 95% and 80% respectively. In France, the TAW sector agreement, unlike many others, is not extended to the 90% of companies that are not members of the employers' association (PRISME). However, PRISME members are the largest companies (accounting for 90% of sector turnover), so collective bargaining coverage is high in terms of number of employees. In Sweden, the collective agreement for the white-collar sector covers close to 90% of relevant companies; coverage for TAW firms supplying blue-collar labour between 30% and 50%.

Finally, it is worth mentioning that although no sector-level agreement is currently in operation in Portugal, the social partners did reach agreement on the regulation of TAW in 1989. This was signed by the Portuguese Association of Temporary Work Companies (Associação das Empresas de Trabalho Temporário, APETT; now the Portuguese Association of Companies of the Private Employment Sector, Associação Portuguesa das Empresas do sector Privado de Emprego, APESPE), and the Federation of Office and Services Workers' Unions (Federação dos Trabalhadores dos Escritórios e Serviços, FETESE). The terms of the agreement were mostly surpassed by the legislation introduced in the same year so it had very little impact and was not renewed. However APESPE is presently looking to renegotiate a collective agreement for the sector.

Company-level collective bargaining

Collective bargaining in TAW firms is reported in five of the nine countries with sector-level arrangements. These arrangements are not obligatory and are more likely to be found in the larger firms. For example, in Finland, major company-level agreements include that of the public-sector agency Seure Employees Services (SEURETES) which has signed a collective agreement with a number of education and health sector unions. It applies to workers with contracts of up to 15 days and contains regulations about wages, working hours, annual leave, sickness benefits and representation. In addition, the largest agency in the country, Varamiespalvelu-Yhtiöt, has collective agreements with the United Services Union (Palvelualojen ammattiliitto, PAM) and the Chemical Workers' Union (Kemianliitto), which include improved holiday entitlements amongst other additional benefits. In Denmark, company-level collective agreements are common in TAW firms and it is these, together with the TAW sector agreements that form the mainstay of the Danish regulatory system. In most cases (e.g. construction, trade, transport, services) the agency agreement is the most important.

In Germany, works agreements are not uncommon in the major firms and an interesting recent development is a number of company-level agreements regulating the use of TAW in specific user companies in the metalworking sector. Examples include a 2007 agreement between IG Metall and Adecco that applies only to workers assigned to Audi. It stipulates that these agency workers receive a wage corresponding to that fixed by the collective agreement of the Bavarian metal and electrical industry. The union signed a similar agreement in 2008 with 16 TAW firms, which applies to agency workers at BMW. Such arrangements are likely to become increasingly widespread in the metalworking sector following a 'fairness covenant' agreed between IG Metall and the BZA and iGZ on 11 April 2008. This establishes a framework for further settlements between the agency, user company and the union or works councils and will apply standards superior to those set at the sector level for TAW.

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There are also a number of company-level agreements in the UK, which does not have sector-level bargaining. Examples include an agreement between Adecco and the GMB union, first signed in 1997. Manpower has also had agreements with various unions and its staff handbook states that agency workers 'are encouraged to consider joining a relevant union'. The Transport and General Workers Union (TGWU, now part of Unite) has had a relationship with Manpower since the 1960s, with a recognition agreement signed in 1988. The company has funded two drivers who are trade union representatives with facilities and time. The Banking, Insurance and Finance Union BIFU (now also part of Unite) also signed an agreement with Manpower in 1995. Also notable are GMB agreements with three agencies supplying staff to telecommunications companies signed in the 1990s. British Telecom (BT) had a policy of encouraging agencies to consider formal union agreements and, at the time, the union said it had around 6,000 agency workers as members, mainly in BT call centres. Another significant example is an agreement between the specialist TAW firm Education Lecturing Services (ELS) and the Association of Teachers and Lecturers (ATL); full union recognition was granted in 2000 following an understanding on recruitment and representation some years earlier.

A final consideration at company level is that European Works Councils (EWCs) do not seem important in the sector, though there are some longstanding examples. Randstad and UNI-Europa signed an agreement in 1995, reviewed every two years, setting up a European platform for social dialogue that has the same characteristics of a EWC. Adecco has set up a Platform for Adecco Communication in Europe (PACE), though union representatives state that its function is limited to providing general information to workers' representatives at cross-border level. Otherwise, only the Swedish national centre commented on EWCs, to the effect that MNCs have paid increasing attention to these over the past two or three years, but that the unions have been reluctant to engage them since many other national representatives are not union members.

Regulation by collective agreements in other sectors

The use of TAW is well regulated by Belgian law and the JC 322 collective agreements, which may not be subverted by any other sector or company agreements that apply to the user company (though such agreements are free to add terms and provisions that have superior effects). For example, a collective agreement in the engineering construction sector, which employs large numbers of agency workers, introduced a bonus of 1% of gross income for agency workers to bring them into line with other workers in the sector. Similar preconditions generally apply elsewhere. In Spain, sectoral or regional collective agreements that cover user companies in Spain often contain references to the use of TAW, in particular equal pay with permanent staff, and may also include rules concerning equality in terms of some other employment conditions such as compensation for termination of contract (one example is an agreement covering the ceramics industry in Castellón). Company-level agreements might also specify preference for agency workers in recruitment to permanent positions (as at CC Valeo Iluminación SA). It also remains possible that agreements might seek to restrict the use of TAW, e.g. specifying only certain or exceptional conditions, maximum contract duration or permissible proportion of the workforce (usually up to between 5% and 12%, according to the size of workforce), though the TAW sector agreement has committed the union signatories not to seek such terms.

In Italy, collective bargaining in other sectors plays an important role in regulating temporary agency work, both at sector level and in the company agreements of larger firms. The latter usually refer to the allocation of company performance bonuses and may include terms governing 'job stabilisation' (i.e. when leased workers become employed on open-ended contracts). At sector level, the productive sector agreements are more likely to set quantitative limits on the use of labour-leasing contracts (although always with reference to exemptions envisaged by the general regulations on fixed-term contracts), and to specify detailed 'causal' reasons for their use. The metalworking agreement, which was renewed on 20 January 2008, sets a 44-month limit for fixed-term contracts that applies to both temporary and leased workers, whether service was continuous or not. Beyond this, firms must have open-ended contracts with these workers. It also stipulates a limit of TAW as 8% of a company's workforce. The sector agreements for transport and commerce each have a higher limit of 15%, though various categories of workers may be excluded from this calculation, as envisaged by law, such as seasonal workers, workers aged over 55 years, those replacing absent workers, and more generally in circumstances of new business start-up (for an initial period established by the CCNL).

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User-company agreements are also an important means of regulating TAW in Denmark, whether at sector or company level. Some of the sectors in which agency firms operate, most notably those for industrial production and construction, have sector-level agreements with protocols on TAW. These state that agency workers must be employed and work in accordance with the sector-specific agreement concerning all aspects of pay, working time and other important terms and conditions of employment. The regulation of TAW is also extensive in Dutch collective agreements. In 2004, a total of 275 agreements applicable to user firms had clauses covering one of more of the following: the permitted duration of TAW; reasons for use; training for agency workers; and provisions for transfer to permanent contract. In Finland, the construction sector agreement stipulates that Chapter 17, section 2 of the 2007 Cooperation Act, which requires TAW to be subject to negotiation, need not apply where it is used for a period of between one week and two months. It also requires that user companies dispense with the use of TAW before any lay-offs or dismissals of permanent workers. The use of TAW is forbidden under the terms of the collective agreement for stevedores. In Austria, works agreements often stipulate stringent limits to the use of TAW, including quotas (usually 5%–10% of the workforce) and obligations to hire agency workers as permanent staff after a certain period (normally one year). They may also require company benefits to apply to agency workers, and establish rules concerning information rights for the works council over the use of TAW. In contrast, in Germany, only a few company-level collective agreements or works agreements seek to regulate the use of TAW in user companies by measures such as quotas or conditions such as wage parity, according to data in the works agreement archive of the Hans-Boeckler-Foundation. A 2007 survey of 80 works council agreements found that around a quarter referred in any way to TAW.

In some countries, collective agreements require user companies to inform employee representatives over plans for their use of TAW. In Norway, for example, the metalworking agreement states that user companies must consult workplace union representatives on the necessity for, and scope of, using TAW. The agreement also states that user companies must provide union representatives with details of the pay and employment conditions of agency workers. Agreements in other sectors where TAW is growing, such as construction, have adopted similar provisions. In Sweden, the user company is obliged by the Codetermination in Working Life Act 1976 (Lagen om medbestämmande i arbetslivet, MBL, section 38) to confer with their employer association before hiring agency workers in order to ensure that the relevant terms of the collective agreement and the law will be observed. Some company-level agreements have further specified these requirements, for instance stipulating limitations on the proportion of agency staff (commonly 20%). In Luxembourg, it is a requirement of the Labour Code that the joint committee of the user company must be consulted before recourse is made of TAW. Some sector agreements also limit the use of TAW. For example, the collective agreement for the security firms sector indirectly excludes the use of TAW as it stipulates that a labour contract must exist between the employer and the employee, and this is not the case with TAW. (Furthermore, security sector employers are required to obtain approval from the Ministry of Justice, and this would currently not be issued to agency firms).

The Irish national agreement (‘Towards 2016’) sets out circumstances in which TAW may be used in the public sector, but stipulates that this must be regulated by collective bargaining with the public service unions concerned. In the private sectors, an important example of company-level collective bargaining in user companies concerns the British food retailer Tesco. The company reached agreement with the trade union Services, Industrial, Professional and Technical Union (SIPTU) in 2007 concerning agency working in the company’s Dublin distribution centre. The union sees this agreement as a model for other companies and workplaces with significant levels of agency work. It contains three key terms:

- agency workers enjoy the same pay and conditions as comparable direct employees with the same level of service;
- after 26 continuous weeks’ service, agency workers can enter an employment panel from which future direct Tesco workers will be recruited;
- the level of agency workers is to remain at 10% or less of the workforce, other than for specified peak periods.

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Similar terms were reached in another SIPTU agreement in the logistics interests of the agricultural and food distribution company Keelings to conclude a dispute in 2007 over the use of agency workers. The agreement specifies a limit of 15% agency work, introduces changes to sick pay and absence policies, and provides for agency staff to join a resource panel after six months service to fill permanent vacancies. Other companies where the union has engaged in firm-level bargaining around the equal treatment of agency workers include Diamond Electronics and the Dublin-based retailer Arnotts.

Regulatory outcomes

The substance of the law and collective agreements can be examined in several ways. One set of potential regulations concern when and how TAW may be used. The questionnaire focused on permissible conditions, such as reasons for use or duration of assignments, plus other stipulations and requirements to do with contracting and agency operating requirements. Second is the issue of equal treatment for agency workers, especially relating to pay but also in terms of employee benefits, working conditions and representation. Third is the issue of how regulatory systems are enforced. Each of these areas is now reviewed in turn.

The remit of TAW activities

The use of TAW may be restricted or defined in a number of ways. As indicated in the preceding chapters, the main potential areas of regulation include: setting out for what reasons or under what circumstances user companies are permitted to make recourse to TAW; limiting the proportion of agency workers that can be used; proscribing TAW in certain sectors or occupations; or placing a ceiling on the duration or number of TAW assignments. Seven countries have no such restrictions, whether by law or collective agreement, except to prohibit the use of TAW where there is a strike. These are Denmark, Finland, Hungary, Lithuania, the Netherlands, Slovakia, and the UK. A further six countries have no such regulations, including any specific provision concerning the use of TAW in labour disputes – Bulgaria, Cyprus, Estonia, Ireland, Latvia, and Malta. The remainder place limitations on the remit of TAW in some way.

Reasons for using TAW

A number of countries set out permissible reasons for using TAW, normally by law, though these can be fairly broadly interpreted in practice. Italian law refers to the general circumstances in which the use of temporary labour is permitted as ‘reasons of a technical, productive, organizational or substitutive nature referable to the ordinary activity of the user firm’ (Decree Law 276/03, art. 20, sub-section 4). It is also permitted by law to use leasing contracts to replace absent workers, for example those on maternity leave or away due to sickness or accident. The specific reason for use must also be stated in the contract between the user firm and agency.

Belgian law defines four situations in which temporary agency work is authorised: as a replacement for a permanent worker; to cover temporary and exceptional peaks of work; for work of an unusual nature; and for artistic performance. Temporary work is not allowed to replace a worker made redundant or laid off due to any economic or technical reasons. Furthermore, in certain cases, the user enterprise has to ask the agreement of the trade union delegation in order to hire agency workers. This applies where the reason for TAW is to replace a dismissed worker (both in the first instance and for any further renewal, up to six months) or to cover temporary peaks of production (where the union has authorisation rights concerning both the length of assignments and number of agency workers hired). If there is no trade union delegation in the user company, a sectoral social fund or a mediation body must be informed, though no prior agreement will be necessary to authorise TAW use. Spanish law (29/1999) sets out three reasons that permit the ‘transfer’ of workers: to carry out a temporally specific service or work, for the duration only of that work; to meet special demand needs or to address an accumulation of work; or to substitute for temporarily absent employees that retain a right to return to the job. The Luxembourg Labour Code specifies that TAW can be used in the following circumstances:

- to replace a temporarily absent employee or one whose contract has been suspended;
- for seasonal work;

- to perform certain types of work where permanent employment is not usual, or for a specific and occasional task which is not part of the usual activity of the company;
- to meet a temporary increase in activity;
- to complete urgent work on safety grounds;
- to facilitate the integration of unemployed people.

In France, the law states that user enterprises may only use TAW to replace an absent employee, to meet a temporary increase in activity, or for intrinsically time-limited posts. This was modified after consultation with the social partners in 2005 to take into account the work needs of individuals such as those who are unemployed. The Romanian Labour Code (article 88) sets out the grounds for a permitted temporary work assignment: to replace a permanent worker whose contract is suspended, for that suspension period; to perform seasonal work; or to perform specialised or occasional tasks. In Germany, there are broad rights for works councils of the user enterprise to be informed about the use of TAW under the terms of the AÜG and section 99 of the Works Constitution Act (Betriebsverfassungsgesetz, BetrVG). This establishes a very narrow set of circumstances under which works councils can object to the use of TAW, such as an agency's failure to comply with the AÜG. In Portugal, permitted reasons for use are set out by Article 18 of the Law 19/2007.

Article 57 of the Slovenian Law on Labour Relations, 2007 does not specify particular reasons for use but does state that agency workers may not be referred to a workplace where there has been significant redundancies in the previous year, where workers may be exposed to dangers and risks, or 'in other cases which can be laid down by branch collective agreement'. Similarly, no general reasons are specified under Polish law, but the use of TAW is not normally permitted where a potential user company has made collective redundancies in the previous six months. The same applies to Greece, where the period referred to by law is the previous year. In Lithuania, a model collective agreement published by the Labour Ministry states that TAW should not be used for hazardous work or to replace workers made redundant in the previous three years; this has had some influence on enterprise-level agreements.

In some countries, there may be formal scope for the social partners to amend legal provisions by collective agreement. The Norwegian Working Environment Act, for example, provides that user enterprises may use TAW in the same situations as they are permitted to use other temporary employees, i.e. when warranted by the nature of the work and the work differs from that which is ordinarily performed in the undertaking, or as a temporary replacement for another person or persons (section 14-9, 2). The Act also provides that the social partners at company level can reach a collective agreement on alternative rules (section 14-12, 2).

Duration of assignments

A number of countries make provision for a maximum duration of TAW assignments. In France, the law limits the length of assignments as between 18 and 24 months, inclusive of any contract renewals, according to the reasons for use. In Portugal, the maximum permitted assignment was increased from one to two years by Law 19/2007. The Labour Code of the Czech Republic stipulates a maximum single assignment of one year, though this does not apply in the case of maternity or parental leave, or where an agency worker requests a longer duration. The total length of any assignment is limited in Luxembourg to a maximum of 12 months, inclusive of any renewals, under article L.131-8 of the Labour code. This also stipulates that a contract must state a fixed term unless it is concluded to replace an absent employee, for a seasonal job or in certain sectors according to Grand-Duchy regulation, in which case a minimum term must be identified. The maximum 12 months applies unless in exceptional circumstances, such as for very highly skilled work, where the Minister of Labour can authorise an extension in the worker's own interest. Seasonal contracts cannot be concluded for a term longer than 10 months in a period of 12 successive months.

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In Romania, the length of a temporary work assignment may not exceed 12 months, according to article 89 of the Labour Code, though an extension of six months may be permitted if this is specified (with reasons) in the individual employment contract. In Poland, agency workers may not be deployed to any one employer for more than 12 months over a period of 36 consecutive months. The sole exception concerns the substitution of an absent full-time employee, where the maximum assignment is 36 months. The worker is then not allowed to accept any further assignments with that user employer for the following 36 months. Greek law limits an assignment to eight months, though a renewal is permitted up to a possible further eight months. If this total period happens to be exceeded by two months, the worker's contract with the agency is deemed to be replaced by an open-ended employment contract with the user employer. Article 59 of the Slovenian Law on Labour Relations 2007 states that an agency may not provide workers continuously, or with interruption of up to one month, for more than one year in the case of the performance of the same work by the same worker. In addition, the duration of the contract between the agency and the user company is limited by article 6č of the Law on Employment and Unemployment Insurance (LEUI) 2006, which states that the period of the 'concession contract' shall not exceed one year.

In Italy, the TAW collective agreement stipulates that the initial assignment can be extended for a maximum of five times and for an overall duration of no more than 36 months.The regulation of assignment length is made under the terms of the national collective agreement in Belgium. The maximum permitted length of the assignment depends on certain conditions, linked to reason for use, as defined in the national collective agreement no. 47 (18 November 1990), as replaced by agreement no. 58. The maximum permitted lengths of assignment are:

- the whole period concerning the temporary replacement of a permanent worker (e.g. due to sick leave);
- a maximum of six months when replacing a dismissed worker, with a maximum of an additional six months subject to the agreement of the trade union delegation;
- any period agreed by the union delegation to meet any temporary peaks of demand (or a period of six months plus up to two further periods of six months if there is no trade union delegation, providing the social fund or mediation authority is informed);
- from seven days to 12 months in the case of unusual work, depending on the situation, to which a special National Collective Agreement (of November 1981) applies.

Numbers employed

Overall, there was generally little evidence of law or collective agreements limiting the numbers or proportion of agency workers that may be employed in user companies, though it may be the case that this is difficult to obtain since such arrangements are localised. As noted above, respondents in Austria, Germany, Spain, Sweden and Ireland referred to company or works agreements that set more or less significant limits on the proportion of agency workers that can be used. It might also be relevant that in Belgium the agreement of any trade union delegation present in the user company is necessary where TAW is used to cover temporary peaks of production. The only such restriction in law was identified in Austria, where public hospitals and nursing institutions are able to use agency staff up to a maximum of 15% of total staff in the relevant department, according to the 2005 amendment to the Health and Nursing Act (Gesundheits- und Krankenpflegegesetz, GuKG) of 1997.

Sector or occupation

A small number of respondents referred to measures to limit TAW by sector or occupation, though broader restrictions concerning 'dangerous work' may also apply. In the Czech Republic and Norway, there is provision under the law for government to restrict TAW in this way but the option has not been taken up. Belgian law forbids the use of TAW for blue-collar work in the removals and furniture warehouses sector (JC 140.05) and inland waterways (JC 139). Other activities with a dangerous character are also prohibited from using TAW (Royal Decree 1997). In Germany, the AÜG

in principle prohibits the use of TAW to cover blue-collar work in the construction industry except under the (unlikely) conditions of a collective labour agreement. In Austria, de facto restrictions on TAW apply to the civil service, as far as sovereign functions are concerned, and in professional occupations such as medicine and law, which are strictly regulated by specific legislation. There are special provisions relating to the use of TAW in the public sector in Greece. Specifically, employees may not be employed through TAWs where the Civil Service Staffing Council (ASEP), an independent administrative authority, is competent to fill the jobs in question. This excludes groups such as staff of the Presidency of the Hellenic Republic and the Hellenic Parliament, members of the judiciary, most of the staff of the Legal Council of State and the medical coroners, and research staff employed by foundations and institutes.

Strikes

A prohibition on the use of TAW as substitute labour in the course of an industrial dispute is the most common form of restriction on agency work. This is specifically prohibited by law in France, Italy, Spain (Law 29/199, article 8) and by article 57 (para. 2) of the Slovenian Law on Labour Relations. In the Netherlands, such use of agency staff is not permitted by Article 10 of the WAADI Act. In Austria, the AÜG explicitly prohibits the hiring-out of agency workers to establishments that are affected by strike action or lockout, and agency workers are not required to continue work at strikebound companies. Any infringement of this rule by the agency is unlawful and may lead to the cancellation of the trade license. In other countries, restrictions on the use of TAW in the event of strikes is addressed by more general prohibitions concerning the use of any form of temporary or otherwise substitute labour. Article 92 of the Romanian Labour Code and article 8 of the Polish legislative Act regarding employment of temporary workers both state that companies may not use temporary workers to replace employees participating in a strike. In Belgium, it has been illegal since 1987 to hire temporary workers where there is a strike or lockout. The Portuguese Labour Code (Law 99/2003, article 596) and the Slovakian Act no.2/1991 on collective bargaining prohibit the substitution of striking workers with any other workers. The Czech collective bargaining act has the same stipulation.

The legal restriction is qualified in two countries. In Hungary, the Labour Code prohibits the use of agency workers during strikes but, according to labour court rulings, this does apply to agency workers already hired by the user company. It is thus conceivable that, with appropriate organisation of work, the user enterprise may in practice substitute workers on strike with agency workers already available at the firm. In the UK, a ban on supplying agency workers to do the work of those on strike, or to do the work of other employees transferred to cover the work of strikers, was introduced in the UK by the Conduct of Employment Agencies and Employment Business Regulations 2003. It applies only to 'official' disputes, i.e. the strike has been organised by a trade union and meets the legal requirements on balloting of members and provision of notice to the employer. Furthermore, in Germany, it is lawful to use TAW in the course of a strike; however, under the provisions of the AÜG, agency workers are entitled to refuse to work at a user company that is directly affected by industrial action, and the agency must inform workers of this right.

The restriction on the use of TAW in strikes is made by collective agreement in some other countries. In Denmark, some collective agreements in the TAW sector state that member companies must not take on work in circumstances of a strike. The TAW sector agreement in Luxembourg (article 14.3) also states that agencies will not make available temporary agency workers to user companies in order to replace strikers. There are strict regulations in Norwegian collective agreements concerning the replacement of striking workers. These terms apply generically rather than to certain categories of labour such as TAW. Such a ban also operates in Sweden under the terms of the blue-collar collective agreement. The white-collar and academic agreement has no such regulations but union representatives state that they have a mutual understanding with agency firms that they should not lease labour to companies involved in a strike. In Finland, the code of conduct of the employers' association HPL states that 'due to international practice, agencies must not hire personnel to a company where legal industrial action is taking place, unless the parties of the conflict agree to the hiring of personnel'. In Lithuania, there are only a few enterprise-level collective agreements that refer to agency work, e.g. the food sector agreement. These forbid the use of TAW to replace striking employees or workers made redundant. The model collective agreement drawn up by the Lithuanian Trade Union Confederation and published by

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the Ministry of Social Security and Labour equally precludes the use of TAW in strikes, and also where work is hazardous, or to replace employees made redundant in the previous six months.

Other conditions and requirements

Most countries have rules concerning operating requirements for TAW, often supported by a system of licensing. Regulations governing the nature of contracts are also fairly common.

TAW operating conditions

Rules governing the running of an agency, such as licensing schemes or financial obligations, apply in most countries. In Norway, new regulations introduced in 2008 mean that agencies will have to be registered and supply liability and capital guarantees. A licensing system, and statutory code of practice, is also currently proposed by the Irish Employment Agencies Regulation Bill. In contrast, the requirement to obtain a license was removed in the UK in 1995 (though reintroduced for the food processing and agricultural sectors in 2005) and in the Netherlands with the introduction of the Temporary Agencies Act (WAADI) in 1998. in Estonia, until 2006, a license was required to provide labour market services (including TAW), renewable every three years; the Labour Market Services and Benefits Act 2006 now requires only registration, and there are no special conditions to open a TAW business. In Sweden, there is no license as such but all member companies of the TAW employer association will soon have to be authorised, which includes amongst other things a condition that at least one manager has undertaken the association’s training course. Authorised agencies are also obliged to follow a collective agreement. In Denmark, only agencies operating in the transport sector need to meet special conditions, including obtaining a certificate from the Transport Authority (Færdsesstyrelsen). A similar requirement in the health sector was terminated in 2007. In Finland, the only specific requirement is that agencies notify the relevant authorities under health and safety law when commencing business.

French agencies must register with the Ministry of Labour and Employment, provide a financial guarantee and place regular records with the authorities. Agencies in Poland have been required to register with the regional authorities since 2005. Belgian agencies also require an operating license from the regional authorities, which may set their own conditions under the advice of a commission of the social partners. In Germany, a permit is required for agencies to operate. This is obtained from the Federal Employment Agency (Bundesagentur für Arbeit, BA), which will issue an unlimited license to legally complying companies after the third annual renewal. The BA must be notified of each contract with a user company, and further detailed statistics should be provided to it on a biennial basis concerning the number and nature of user enterprises, workers and placements. In Austria, agencies require a license under section 135 of the General Trade Act (Gewerbeordnung, GewO). The WKÖ is also considering introducing its own quality certification scheme and has undertaken informal consultations with the Metalworking, Textiles, Agriculture and Food-processing Union (Gewerkschaft Metall-Textil-Nahrung, GMTN).

Temporary work agencies must also be licensed in Romania. Government Decision no. 938/2004 (Article 3) sets out a number of conditions embracing the prior record of applicants concerning labour and trade legislation and tax and social security payments. A bond is also payable. In Slovakia, Act No. 5/2004 specifies conditions for obtaining a business licence, which include meeting minimum educational and professional standards. In the Czech Republic, the conditions for opening an agency are specified in the act on employment. Mediating employment can be conducted only with a licence issued by the Ministry of Labour and Social Affairs (Ministerstvo práce a sociálních věcí ČR, **MPSV ČR**). An individual applicant must be aged at least 23, without a criminal record, professionally competent (as defined by education and experience criteria), and resident in the country. The licence is issued for a maximum of three years before renewal is required. In Hungary, the compulsory registration and licensing of temporary work agencies was introduced in 2001. Applicants must have a permanent office with collateral (approximately €4,000) and meet certain professional and competency standards. In Malta, under the terms of the Employment Agencies Regulations 1995, a person who carries out employment services requires a licence issued by the Director of Industrial and Employment Relations.

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Applicants must be aged 25 or over, be of good moral character, and have not less than six years' experience in an activity that includes the management of human resources, or three years if in possession of a relevant university qualification.

Article L.131-2 of the Luxembourg Labour Code requires authorisation of agencies by the Ministry of labour and Employment, as advised by the Employment agency (Administration de l'emploi, ADEM) and the Work and Mines Inspectorate (Inspection du travail et des mines, ITM), taking into account evidence of the professional worthiness ('honorabilité professionnelle') and qualifications of the applicant. Approval is subject to a financial guarantee to cover wage and taxation obligations in the event of failure. This is currently set at €87,000 for the first year then fixed at 11% of turnover. The approval initially lasts for 12 months but can then be extended for a further 24 months before being maintained indefinitely. In Slovenia, regulations introduced in 2006 state that an agency must meet a number of personnel, organisational and other criteria in order to obtain a licence. Portuguese agencies must also be licensed, according to articles 8-9 of Law 19/2007, with a deposit placed with the authorities. In Spain, Law 14/1994 establishes conditions for employment agencies relating to certain organisational structure and administrative requirements, and there are regulations requiring the funding of training. According to Greek law, a temporary employment agency may be established only in the form of a 'société anonyme' with share capital of at least €176,083. A licence must also be obtained from the Minister of Labour and Social Security, after an opinion from the Temporary Employment Monitoring Committee (EEPA). The EEPA consists of three representatives from the Ministry of Employment and Social Protection (Υπουργείο Απασχόλησης και Κοινωνικής Προστασίας, YPAKP) and the Employment Directorate of the Labour Force Employment Organisation (Οργανισμός Απασχόλησης Εργατικού Δυναμικού, OAED). The agency must submit two letters of financial guarantee from a bank as a guarantee of wages (a minimum €146,700, to be submitted to the YPAKP) and insurance contributions (minimum €58,700, submitted to the Social Insurance Foundation (Ίδρυμα Κοινωνικών Ασφαλίσεων, IKA).

Stipulated business activities

Other than compliance with any licensing and other legal requirements, there are no restrictions on the business activities of agencies in Cyprus, the Czech Republic, Denmark, Estonia, Finland, Germany, Hungary, Ireland, Latvia, Lithuania, Malta, the Netherlands, Norway, Romania, Slovakia, Sweden and the UK. However, in some instances, agencies are not allowed to conduct business other than TAW (or related activities). Article 131-3 of the Luxembourg Labour Code requires that agencies conduct only TAW business if they are to be authorised by the Labour ministry. In Spain, Law 14/1994 limits agencies to the conduct of temporary work intermediation and related activities. The same applies to Slovenia, where the Article 2 of the 2006 Regulations defines the business activities of TAW in terms of employment and work brokerage, including brokerage of temporary and casual work to secondary school pupils and students, and implementation of the employment plan for unemployed persons and of measures of active employment policy.

More usually, any regulations relating to business activities permit agencies to provide a wider range of labour market or related consultancy services. Greek law states that agencies may not carry out any other activity than TAW, except for recruitment services, for which they need special permission, and general human resources assessment or training. In Italy, the law allows agencies to provide staff recruitment and outplacement services, including training, in addition to labour leasing activities. Portuguese law (article 3 of Law 19/2007) permits a wider range of activities to do with human resource consultancy and management including recruitment and selection and training, though it explicitly prohibits the provision of outsourcing services. In Poland, agencies are certified only for agency work but are not precluded from offering other business services on the basis they are maintained as distinct from TAW. A requirement of the license in Belgium is that the provision of agency workers must be the principal or accessory activity of the business, and companies other than agencies may only hire out workers under very strict conditions. In France, until the January 2005 law, TAW had to be the sole activity of agencies, but employment placement is now permitted as a secondary line of business, and it has been proposed to extend this so that agencies can operate as 'umbrella companies' offering a range of search, placement and labour provision services.

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Form of the temporary work contract

Relatively few countries have requirements that agency workers be employed on particular types of contract, e.g. fixed term, open ended, special, or project based. Italy is somewhat of an exception, in that all TAW contracts must be fixed-term. The law also regulates the form of the contract between the user firm and the labour agency. This must contain various details: the authorisation issued to the leasing agency; the number of workers to be leased; the specific reasons for resorting to leased labour; indication of any risks to worker's health and the safety and any other measures adopted; the start and finish dates of the workers' assignment contract; the work tasks assigned to the agency workers and their job classifications; and the workplace, working hours, pay, and legal conditions of the leased workers. The user firm must also inform the agency of wage rates for comparable workers. In addition, the contract must state the obligations of the user firm and agency concerning workers' pay and social security contributions, and may not contain any clause that restricts the user firm from hiring the worker on conclusion of the leasing contract. In practice, around a quarter of agency workers are hired by the user firm after one year of work, a third after two years and 40% after three.

A number of countries require a similar level of contractual detail. According to French law, each assignment must have its own written 'assignment contract' signed by the agency worker and the agency. This must contain information such as the length of the assignment, reasons for use, the job description and how the agency worker meets the required skills, as well as details of pay, bonuses and benefits. In Luxembourg, the employment of the agency worker is governed by a 'mission contract', which must specify at least a minimum work duration if not a specific term. The mission contract may also specify a trial period and must state that direct employment by the user company is not forbidden. In addition, there are rules concerning the commercial 'availability contract' (*contrat de mise à disposition*) between the agency and user firm that must state the reason for – and duration of – TAW and the skills or qualifications required. Greek law also requires two written contracts for the performance of TAW. The contract concluded between the agency and the user company details matters such as the worker's pay and social insurance contributions, and the agency must notify employees of these details. The contract between the agency and the worker is a contract of employment and may be for a fixed or indefinite term. If there is no indirect employer at this point, once the agency has signed its commercial contract with the user company then a supplementary contract needs to be drawn up between the agency and the employee to define the more specific terms for the assignment.

Romanian Government Decision no. 938/2004 similarly regulates two types of contract. The contract between the agency and the employee, referred to as the 'temporary employment contract' details the place and nature of the assignment, its duration, working conditions and any hazards, salary and leave entitlements, working time, any probationary period, notice requirements, and workers' qualifications and skills. The contract between the agency and the user company – 'the sourcing contract' – sets out the rationale for use of TAW and also refers to likely duration, the job description and qualifications required, and work details such as the place of assignment, work schedule, working conditions, personal protective equipment, and services available to the temporary worker. It also sets out the worker's pay and fee paid to the agency. Czech law also governs the dual contract arrangements between the agency and user company, and between the agency and temporary worker. The latter must specify details on pay, working conditions and type of work and duration of the assignment.

The Austrian AÜG stipulates that a service contract (*Dienstverschaffungsvertag*) be signed between an agency and user company, which specifies such things as the number of workers. The employment contract is between the agency and worker and, unusually, fixed-term contracts (FTCs) are only permitted for substantial reasons, of which the temporary nature of the assignment is explicitly excluded. Hence, the agency worker's contract is effectively an open-ended one and when the worker is not hired out, the minimum wage as stipulated by the collective agreement applies. The law also lays down minimum notice periods for dismissal of at least two weeks for blue-collar workers and six weeks for white-collar. The sectoral collective agreement for blue-collar workers has extended this period for up to seven weeks, depending on the length of continuous employment with the agency. It also reinforces the legal condition restricting dismissal on grounds of assignment completion (e.g. prohibiting dismissal for the immediate four subsequent working

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days). In Sweden, it is the TAW sector collective agreements that regulate the employment contract. Both agreements state that employment is permanent unless otherwise specified. The blue-collar agreement limits temporary arrangements to six months, with the possibility of a further six months subject to approval by the local employee association. Under the Dutch Civil Code (Article 7: 668a), temporary workers are entitled to a permanent contract after three years or three successive fixed-term contracts, if this is sooner. However the ABU collective agreement modifies this with is stages arrangement (Articles 7 and 8).

In contrast, the law in Belgium states that agency workers are hired on a FTC, with a written contract specifying the job requirement, salary and name of the user company. In Slovakia, agencies also conclude written FTCs with workers. In Slovenia, the employment contract between the agency and worker can be concluded for either a definite, fixed term or for open-ended period of time (Article 58, para. (1), LLR 2007). The same option is provided under Portuguese Law 19/2007 (articles 13-14).The Hungarian Labour Code also allows for either fixed-term or open ended contracts, but defines both as cases of a special type of employment contract when concluded for the purpose of TAW, so that certain conditions (e.g. shorter notice period) apply.

However, many countries have no specific such regulations for agency work, which is therefore covered by the standard rules that apply to employment contracts generally. These include Cyprus, Denmark, Estonia, Finland, Germany (where, incidentally, agency workers are deemed to be permanent employees of the user firm where an agency is found to be operating unlawfully), Ireland, Latvia, Lithuania, Malta, Norway and the UK, where additional requirements concerning the contractual relations between the agency worker and the agency are stipulated by the Conduct of Employment Agencies and Employment Businesses (Amendment) Regulations.

Social security rules

Most countries have no special rules for TAW concerning social security and social benefits such as health insurance, invalidity, unemployment benefits and pensions, which are governed by the normal rules that apply to all firms. These countries comprise Cyprus, the Czech Republic, Estonia, Denmark, Finland, Germany, Hungary, Ireland, Latvia, Lithuania, Malta, Norway, Poland, Romania, Slovakia, Slovenia, Spain, Sweden, and the UK. A number of other countries make this situation explicit. The Labour Code of Luxembourg states that all legal provisions applicable to permanent staff also apply to non-permanent workers, unless otherwise specified (Article L. 122-10). It also confirms that agencies have sole responsibility for paying social security and tax charges, as well as the wages of agency workers (article L. 131-12). Similar stipulations apply in Portugal under article 41 of Law 19/2007. The Austrian AÜG states that agency workers are covered by the same social security system as permanent staff and that agencies must register workers with the relevant institutions. In Greece, the agency and the user company have joint responsibility for the payment of agency workers' insurance contributions. In Italy, the law states that the agency must pay social security contributions to the National Social Security Institute (Istituto Nazionale della Previdenza Sociale, INPS) and make insurance payments to the National Workplace Insurance Institute (Istituto Nazionale Assicurativo per gli Infortuni sul Lavoro, INAIL). This provides agency workers with the right to maintenance of the job for 180 days (extendable for a further 120 days upon application by the worker) in circumstances of sickness, with 100% of their pay for the first three days, 75% of full pay from the 4th to the 20th day, and 100% from the 21st to the 180th day. This sickness allowance ceases as soon as the leasing contract expires. It also allows for 100% payment of the wage until expiry of the contract where there has been an accident. After that date, if the contract is not renewed, the worker is entitled only to the allowance paid by INAIL (60% of the wage) until recovery. In addition, workers are entitled to family allowance during the work assignment and maternity and unemployment benefits under the same conditions as apply to permanent workers.

Somewhat different conditions apply where collective agreements have a role in social security administration. In France, the law sets a minimum level of social security cover for all employees, including agency workers, but this is supplemented by specific sector-wide agreements. In Belgium, too, the national collective agreement governs conditions

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such as the end-of-year benefit and retirement benefits, and sub-sectoral agreements make further detailed stipulations. The system in the Netherlands is also different for TAW as benefit entitlements are linked to the duration of placements. For example, workers in 'phase A' have the right to sickness benefits from the national authority (UWV), with the agency supplementing this by up to 90% in the first year and 80% in the following year. Benefits are paid by the agency in phases B and C.

Third-country rules

It is unusual to find differential treatment of foreign TAW companies or agency workers, at least where these are accredited within the EU. The Luxembourg Labour Code states that agencies that have their main or head office outside the EU may not be authorised (article 131-2).The German AÜG explicitly states that companies based in other Member States must be granted licenses under the same conditions as those applying from within Germany. Equally, in Denmark, Cyprus, Estonia, Finland, France, Greece, Hungary, Ireland, Latvia, Lithuania, Malta, Norway, Portugal, Romania Slovakia, Spain and the UK there are no additional regulations about foreign agencies, which need to register in the normal way. Such agencies based in other Member States may temporarily post employees to a user company so long as the necessary rules on immigration status and agency work conditions are observed. The main distinction is thus between EU and non-EU firms and workers, though different entry conditions may also apply in the case of intra-EU migrant labour. For example, the Austrian AÜG states that agencies based in other EU/EEA countries are permitted to hire out agency workers to user firms in Austria, and that these workers enjoy the same rights as Austrian agency workers. However, work permit requirements apply to workers from the new Member States that joined in 2004 (except for Malta and Cyprus) as well as to those outside the EEA. In Denmark, temporary workers from the eastern European Member States are allowed to work in the country but only under the regulation of a collective labour agreement. This does not apply to agency workers from other EU countries. This special requirement applies is intended to refer only to a transition period and will be removed by May 2009.

In the Czech Republic, foreign agency workers placed in the country, excluding citizens of other EU Member States, must have a valid work permit and foreign agencies may only place workers in exceptional circumstances, notifying the MPSV ČR in writing. Under the Slovenian 2006 Regulations, and the Law on Employment and Unemployment Insurance, foreign agencies must also inform the labour ministry as well as meet the normal regulatory requirements to provide employment and work brokerage. In Sweden, an appendix to the blue-collar collective agreement lays down special conditions for foreign agencies, including nomination of a contact person for liaison concerning the collective agreement and terms of employment. It also stipulates mechanisms to ensure employees are informed of the terms of their employment and that relevant insurance is maintained; it also provides for rights of entry to the client company. Workers' vacation entitlements must also be regulated in accordance with the Act on Posting of Workers 1999. The Dutch ABU agreement (article 35a) also has specific terms that apply to agency workers that are employees of a foreign agency. In addition, the Act on Labour Conditions for Migrant Work (*Wet Arbeidsvoorwaarden Grensoverschrijdende Arbeid*, WAGA) sets out rules concerning minimum wages, working time rules, health and safety, equal treatment and other conditions for the deployment of temporary workers, and a second 'NEN-norm' (4400-II) is currently being developed to address the supervision of foreign agencies.

Equal treatment for agency workers

Almost all countries, other than those with minimal TAW, have some provision for equal pay between agency workers and comparable permanent employees of the user enterprise, whether established by law and/or collective agreement. A significant number also have regulations in place concerning training, representation rights and other terms and conditions of employment. However, each of these may vary between countries in substantive terms.

Pay

The only countries without provision for equal pay are Bulgaria, Cyprus, Latvia, Lithuania and Malta, together with Norway, Ireland and the UK. However, in the UK, equal treatment provisions will soon be in place, following agreement

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reached between the government and highest-level social partners in May 2008; equal treatment provisions are also expected to be an outcome of current tripartite negotiations in Ireland. In Estonia, equal treatment requirements are only stipulated for FTC staff under the terms of the Employment Contracts Act.

The law specifies that agency workers be paid the same rate as comparable permanent staff in Belgium (which is usually reinforced by collective agreements applying to the user company), Portugal (article 37 of Law 19/2007) and Romania. Article 95 of the Romanian Labour Code states that this condition must apply for the entire duration of the assignment and that where there is no comparable worker, then pay 'shall be determined in accordance with the provisions of the collective agreement governing that particular type of work for a permanent employee and applicable to the employer concerned'. The Hungarian Labour Code stipulates that equal entitlement in terms of wages and bonuses shall apply after six months' assignment, though for wider benefits the period is two years. In the Czech Republic, the Labour Code requires that the agency and the user company ensure that the pay and working conditions of agency workers are equal to that of comparable permanent employees, with some allowances for different levels of experience and qualifications. Similarly, the Polish law regulating TAW stipulates that agency workers may not receive less favourable treatment with respect to remuneration and other working conditions than the user employer's own employees in comparable work; however, agency workers are allowed to be paid less than permanent staff, within a specified range, to allow for adverse productivity and training implications of inexperience.

In Slovenia, Article 60, paragraph (2) of the LLR states that wages should be the same as comparable workers, taking into account provisions under collective agreements, and that agency workers should continue to be paid between the assignments at a rate not less than 70% of the minimum wage. In France, the law entitles agency workers to the same pay as permanent employees and also makes provision for an end-of-assignment payment to compensate for employment instability. A similar arrangement applies in Spain, where Law 29/1999 provides for equal pay and subsequent regulations have extended the condition of equality of treatment. In Finland, the Employment Contracts Act 2001 stipulates that the pay and conditions of agency workers are the same as those of permanent workers in the user enterprise. The collective agreement that applies to the user firm will also extend to workers employed by the agency. In Luxembourg, equal pay is required under Article L131-13 of the Labour Code, and this is extended by the collective agreement to cover all remunerations. Greek law stipulates that agency workers' pay may not be lower than that set by the industry-wide, occupation-based or enterprise-level collective agreements applicable to the staff of the user company, and in no case may it be lower than that set in the current National General Collective Labour Agreement (Εθνική Γενική Συλλογική Σύμβαση Εργασίας, EGSSE). The Slovakian Labour Code requires equal pay once an assignment has lasted three months, though there is also scope to vary this by collective agreement.

As noted above, agency workers in Denmark are likely to enjoy equal pay requirements under the terms of collective agreements that apply to the user company in certain sectors. In Sweden, equal pay is required under the collective agreement for blue-collar workers, but there is no condition in the agreement for white-collar workers. In Austria, pay equality is stipulated both by the AÜG and under the blue-collar collective agreement (the white-collar agreement sets only general minimum wage rates). However, agency workers may still receive lower pay in practice since the equal pay provisions apply only to minimum wage rates and do not relate to wage drift or premium pay at company level. Agency workers may also be placed on lower pay grades on the grounds of their lesser experience. In Italy, both the law and collective bargaining establish that leased workers are entitled during their assignments to receive pay 'not inferior' to that of the user firm's comparable employees as established by the collective agreements, both national and company-level, applied to the user firm.

The legal requirement of equal treatment is significantly amended by collective agreement in the Netherlands and in Germany. The Dutch WAADI act contains an equal pay clause (article 8) but permits deviation from this by collective agreement. The ABU agreement applies equal pay from day one or after 26 weeks of assignment. The German AÜG obliges agencies to provide their workers the same pay and employment conditions that hold for the permanent

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employees in the user enterprise. However, deviation from this principle of equal treatment is allowed for up to six weeks in order to reintroduce unemployed workers to the labour market and, more generally, where this is established by collective agreement in the TAW sector. As noted above, this has encouraged unions such as IG Metall to seek company-level agreements on the issue of equal pay.

Training

Vocational training is important to agency workers not just so that they may perform their jobs safely and well but in order to maintain their employability. The law and any collective agreements are silent on the issue of training in Germany, Greece, Hungary, Ireland, Norway, the UK and countries where there is little or no TAW or regulatory framework, such as Bulgaria, Cyprus, Estonia, Latvia, Lithuania, and Malta. Otherwise, specific guidelines and requirements relating to training are found in a number of countries. In Italy, a bilateral fund co-managed by the employers' associations and trade unions is governed both by law and collective bargaining. The National Training Fund for Temporary Workers (Fondo Nazionale per la Formazione per i Lavoratori Temporanei, FORM.TEMP) is financed directly by the agencies, which must make contributions equal to 4% of the gross wages paid to leased workers during assignments. The fund provides leased workers with free, certified training schemes intended to maintain their skills and facilitate retraining.

French agency workers are covered by a specific vocational training policy, which is governed by national collective agreements that regulate the activities of the FAT-TT and the FPE-TT. These date back to 1983 and require compulsory contributions from agencies, currently at 2.15% of the gross payroll. In addition, the law requires employers to organise enhanced safety training for temporary workers if they are in posts with specific risks. In Spain, Law 29/1999 requires agencies to invest at least 1% of the total salary volume in training activities, to which the third collective agreement added an additional 0.25% for training specifically devoted to risk prevention. Portuguese law (Article 39 of Law 19/2007) requires agencies to provide training for workers whose work contract exceeds six months in a year. Under article 21 of the Romanian Government Decision no. 938/2004, the user of temporary or agency labour must provide these workers access to the vocational training courses given to its permanent employees. The Slovakian Labour Code and the Act on employment services both contain clauses ensuring equal treatment with permanent staff in terms of vocational education and training. Both collective agreements in Sweden include supplements on competence development.

The Austrian AÜG stipulates that agency workers must not be discriminated against concerning training. Furthermore, the blue-collar collective agreement has established a special retraining fund for workers which may be utilised during periods when the worker is not hired out. Training and education for temporary workers is also regulated in the Dutch ABU collective agreement (art. 39), which entitles phase B and C agency workers to an individual training budget (POB). Collective agreements are also important in Denmark. The most recent general agreement between DE and the union 3F specified that agencies must subscribe to a collective fund set up to finance the education and training of agency workers. Training is also regulated by sectoral collective agreement in Belgium and Luxembourg, where a training fund was established in 2003. The focus of this training is mainly on health and safety matters.

Other conditions of employment

In Italy, the law establishes parity of treatment between the employees of user firms and leased workers – not just in pay but also in terms of working hours, job classifications, overtime and night-time work, holidays, leave, etc. This principle is expressly stated, and confirmed in the relevant CCNL, concerning health and safety and trade union representation matters (see below). In addition, the collective agreement includes a specific terms establishing equality of treatment concerning study entitlements. In Belgium and France, the regulations state that agency workers are subject to the same measures and arrangements concerning working conditions as apply to others in the workplace. Polish law also extends the principal of equal treatment to general working conditions and provides for pro rata leave entitlements. The Czech and Slovenian Labour Codes make reference to a general principle of equal treatment in working conditions. A similar

general entitlement is provided under the Luxembourg Labour Code (Art. L122-10); this is further specified by collective agreement, e.g. concerning access to collective facilities such as catering and transport (Article 8), and over normal working time (Article 11). Slovakian law applies the principles of non-discrimination and equal opportunity to agency workers as for permanent employees of the user employer. According to the Labour Code, the only permitted differential treatment concerns pay for the first three months of the assignment. Working conditions and working time schedules are thus normally the same for agency workers as for direct employees of the user firm. Portuguese law (Article 33 of Law 19/2007 and Article 273 of the Labour Code) extends equal treatment to health and safety practices and services of the user firms. In Greece, the law requires that the same level of protection for agency workers as permanent staff concerning health and safety. It also refers to equality in terms of pay and social insurance, but otherwise differential treatment of agency workers is not specifically regulated.

In Austria, the principle of equal treatment is established only in relation to pay and working time and differential treatment is permitted on other issues, in accordance with the applicable collective labour agreement. The ABU agreement in the Netherlands provides for different entitlements according to duration of assignment. For example, phase A workers who are over 21 years of age have a pension contribution of 2.6% paid by their agency; in phases B and C, the contribution is 12.3 %, including a third paid by the employee. In Germany, the fact that agency workers and permanent workers at the user enterprise are covered by different collective agreements means that agency workers often do not enjoy all additional benefits offered by the user company. In contrast, Article 100 of the Romanian labour Code provides that the standards and legal provisions of the collective agreements applicable to the permanent employees of the user shall apply with the same full measure to agency workers for the complete period of their temporary assignment, except where the law states otherwise.

In Sweden, a principle of non-discrimination applies. The agency worker at the client company shall be considered equal to permanent employees when it comes to prohibitions against reprisals and the duty to evaluate and act against harassments. In the UK there is an important legal distinction between ‘workers’ and ‘employees’. Certain rights and protections do not apply where workers are not ‘employees’, including those concerning unfair dismissal or statutory redundancy payments. Otherwise, all workers, including agency workers, have the right to protection afforded by anti-discrimination legislation, and are covered by social security provisions, such as maternity and sick pay, and minimum wage and working time law. In addition, the Conduct of Employment Agencies and Employment Businesses Regulations cover all agency workers, whatever their contractual arrangements, and offer protections such as prohibitions on agencies requesting or receiving any fee from a work-seeker (subject to some exceptions in the entertainment, modelling and professional sports sectors) and provisions to ensure that agency workers are paid in full and on time. Furthermore, health and safety legislation requires that employers must ensure that temporary, casual and seasonal workers receive as much information, instruction, training and supervision as is needed to enable them to carry out their assigned duties safely.

Representation

In Spain, representation rights concern only the agency itself and not the user company. The same applies under general employment law in Cyprus, the Czech Republic, Estonia, Latvia, Lithuania, Malta and Slovenia. In Sweden, the Act on Union Elected Representative’s Position at the Work Place (*Lagen om förtroendemans ställning på arbetsplatsen*, 1974:358) makes provision for representatives based in the agency firm to perform their duties at the client company, though in practice this is limited by the dispersal of client workplaces that agency representatives have to cover. It does not preclude the representatives of the permanent workers at the client company from acting for agency staff, which might occur where they are union members.

A number of countries make provision for agency workers to be represented in both the agency and the user firm. Agency workers in France have rights of representation and trade union expression within the remit of the agency and also benefit from the standard rights as regards their working conditions in the user company. For example, they may take

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part in elections for employee representatives and their numbers are taken into account (in proportion with the hours worked in the company) when calculating the workforce thresholds used to decide the employee representation procedures in the user company. The Portuguese Labour Code (articles 275, 277) states that all workers have the right to information, consultation and representation, and article 42 of the TAW law (19/2007) requires that any representative bodies in both the agencies and the user companies take into account agency workers. There are also more specific requirements for information on health and safety matters. The right to information, consultation and representation for agency workers in the Netherlands is regulated by the Works Councils Act (WOR) which specifies that agency workers have active voting rights in the agency firm after six months, and passive voting rights after a year. In the user company, active voting rights commence after 24 months, with passive voting rights conferred after three years. Additionally, information about job conditions is required to be supplied at the outset of an assignment by the agency to the worker (WAADI Act, art. 11) and to the agency by the user firm (Arbo Act, art. 5).

In Italy, both the law and the TAW sector agreement provide that leased workers have the right to engage in trade-union activity, such as enrolling with the trade union and electing representatives, and to attend assemblies at the user firm during paid working time. The CCNL for leased workers also allows them to elect their own delegates within the user firm, though this is rarely translated into practice. More generally, the information and consultation rights set out in Legislative Decree no. 25 of 2007 (which transposes **European Directive 2002/14/EC**) encompass all subordinate workers and therefore also cover leased workers. This grants information and consultation rights to company plant-level union structures (rappresentanze sindacali aziendali, RSAs) and the (user firms') unitary workplace union structures (rappresentanze sindacali unitarie, RSUs), as well as to the territorial trade unions, on important issues concerning employment, the organization of work and employment contracts (e.g. the stabilisation of workers on fixed-term contracts).

Agency workers who are members of a trade union enjoy equal rights to information, consultation and representation under the Danish legal system. If not, employment rights are only supported by basic contractual law, which does not cover hiring, firing, training and access to certain social benefits. In Greece, information and consultation law is shaped by the general provisions of Presidential Decree 240/2006, which transposed Directive 2002/14/EC. As regards the agency firm, workers are entitled to establish or join a trade union on condition that they have been with the undertaking, operation or sector of employment for at least two months during the last year. In the user enterprise, article 22, paragraph 7 of Law 2956/2001 stipulates that any clause that directly or indirectly impedes the trade union rights of employees in this category shall be considered invalid. Agency workers therefore have the right to join the respective trade union organisations of the user firm and must be calculated as part of the total number of employees in the user undertaking for the purposes of establishing representative bodies. Workers may only be members of one union, however.

In Germany, the rights pertaining to the user enterprise are more circumscribed than those applying to the agency itself, where agency workers have the right to vote and to be elected to the firm's works council. The AÜG also states that agency workers are entitled to attend works meetings and the consultation hours of the user company works council, providing in principle for a form of double representation. The Works Constitution Act also extends the right to information concerning job requirements and complaints procedures to agency workers. The Act also states that agency workers are entitled to vote in the works council election if they have been working at the establishment for longer than three months, though they cannot stand for election. In Luxembourg, the Labour Code provides agency workers with rights to information and consultation in the user company (Article 414-6), but Article 413-6 limits representation rights as they are not able to vote or be elected to employee representation bodies. In Austria, agency workers are entitled to representation through the works councils of the agency and the user firm, which is deemed to be a 'quasi-employer' if the duration of the assignment is planned to be longer than six months. However the low levels of organisation of agency workers means that only 30 agencies (6%) have established a works council.

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In Belgium, agency workers are also more likely to be represented through the channels of the user firm. A national collective agreement dating back to 1981 allows for the establishment of a trade union delegation in agencies to represent the right of temporary workers. However, in practice, this agreement was never applied and agency workers are represented by the existing trade union delegation in the user enterprise. The number of agency workers present in a user enterprise is also taken into account to meet the threshold of 50 employees necessary for the establishment of a Committee for Prevention and Protection at the Workplace (Comité pour la prévention et protection au travail/Comité voor preventie en bescherming op het werk, CPPT/CPBW) and 100 employees for a Works Council (Conseil d'Entreprise/ Ondernemingsraden, CE/OR), though agency workers have no right to vote. Agency workers also have recourse to the joint mediation organ (la commission des bons offices/de commissie goede diensten) in the case of any dispute with the agency employer.

In the UK, individual agency workers are entitled to be accompanied at disciplinary and grievance meetings with their employer by a fellow worker or trade union representative. Other than this, indirect representation rights in the UK are largely associated with the recognition of trade unions for the purpose of collective bargaining. As is the case with other largely unorganised sectors, especially in private services and those with a high proportion of small firms, agency workers are likely to have limited collective representation rights. Also relevant are the Information and Consultation of Employees Regulations 2004 (UK0502103N), which from April 2008 apply to undertakings with 50 or more employees. However these rights to information and consultation are not automatic but must be triggered by management, or a request by at least 10% of the employees in an undertaking. In the calculation of the employee threshold, temporary agency workers are explicitly excluded as they are not employees of the user company. The situation in Ireland is comparable to that of the UK. Agency workers have rights to information and consultation under the Employees (Provision of Information and Consultation) Act 2006. However, the rights have to be triggered by an application by at least 10% of a particular undertaking.

Agency workers will commonly have rights to information and consultation about safety matters. Otherwise there are no specific stipulations concerning the information, consultation and representation of agency workers in Finland, Bulgaria or Poland, apart from a requirement in the latter case for user companies to inform agency workers of any vacancies that arrive, and agency workers have the right to join trade unions and be represented through this channel. The same applies in Romania and Slovakia, where agency workers have the right to association, collective bargaining and to establish works councils at the agency firm, and to be informed about vacant positions by the user employer. The user company also has to inform its own employee representatives about its use of TAW. In Hungary, the only obligation of the user company is to inform its works council and trade union at least twice a year on the number of agency workers used.

Workplace practice

Respondents were asked to identify in actual practice (i.e. notwithstanding national regulation) indicators of any principal forms of differential treatment with permanent workers in the user enterprise, whether over pay, working hours, pensions, fringe benefits, consultation and representation, training, social and health care, or access to housing, credit and loans. There were two main sets of comments. The first group drew attention to limitations in the entitlements that agency workers currently enjoy. The second referred to research suggesting that the rights of agency workers are not always applied or enforced.

In Norway, agencies set their own terms and conditions of employment: hence, pay and benefits, hours of work, representation and training etc. are all likely to vary from that determined by the user company. Similarly, the current situation in the UK is that agency workers are not employees of the client organisation and hence may lawfully be treated differently in terms of pay and other terms and conditions of employment, regardless of the time spent at the user firm. Also significant in the UK context is that, even where they are members of a trade union, agency workers may be precluded from lawfully participating in industrial action alongside permanently employed colleagues because of rules

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against so-called 'secondary action' (i.e. against firms that are not the worker's employer). Unions in Ireland and the UK have been campaigning for TAW rights and have drawn up a number of reports and submissions highlighting what they identify as the differential treatment and exploitation of agency workers, particularly migrant workers (e.g. **http://debates.oireachtas.ie/DDebate.aspx?F=BUJ20080402.xml&Ex=All&Page=2**; **http://www.tuc.org.uk/extras/sectorreport.pdf**).

In Sweden, the blue-collar national collective agreement states, as its fundamental principal, that there should be no differences or differential treatment between agency workers and permanent staff at a client company, with exceptions around leave. However, the white-collar and academic agreement does not have such a principle. The equal pay requirement in Belgium does not extend to health or other collective insurance schemes that apply in the user company, though negotiations in 2008 encompassed equal pay matters in the pension fund. In Finland, the most notable differential treatments concern consultation, representation and training, since these fall outside the scope of the equal treatment regulations. Differential treatment concerning pay, holidays and pensions is also permitted in the Netherlands due to the sequential entitlements of the collective agreement. The Hungarian Labour Code stipulates equality in terms of wages and bonuses but only after six months assignment and in terms of wider benefits, after two years. Furthermore, agency workers have no representation rights at user enterprises and face constraints within the agency firms in practice due to turnover and a limited of trade union presence. Also, in practice, works council representatives are likely to come from the narrower population of agency administrative employees and long-serving agency workers. Similar practical barriers to effective representation were specifically raised by other national respondents (e.g. the Czech Republic, Ireland, Slovakia, Sweden, and the UK).

In terms of application or enforcement of existing rights, in Luxembourg the OGB-L trade union reported that workers on short contracts of under three months might not in practice be paid the 'going rate' and may miss out on their pro rata entitlement to holiday leave or payment of any 'thirteenth month' bonus. In the Czech Republic there is evidence that equal pay is not always applied, especially in the case of migrant agency labour, as highlighted by a recent controversial case involving Škoda Auto (CZ0802029I). In Slovenia, unions report that agency workers effectively receive lower pay as they are less likely to receive bonuses or benefits such as reimbursement of work expenses. Research in Greece suggests that agency workers may receive lower pay than permanent workers, notwithstanding the requirement of equal treatment under Law 2956/2001. Agency workers also reported that they were excluded from bonuses and benefits awarded to other employees, had less involvement in decision making and higher levels of work stress (GR0707029I). Polish law obliges agency firms and user employers to treat their employees equally. However this principal may be circumvented by special forms of contract. The Ministry of Labour and Social Policy (Ministerstwo Pracy i Polityki Społecznej, MpiPS) estimates that half of agency workers do not have employment contracts but instead service or commission contracts for completion of a specific task or project. Furthermore, according to findings from the National Labour Inspectorate (Państwowa Inspekcja Pracy, PIP), agency workers face a number of problems concerning health and safety, working time and leave in particular. This was mostly due to the practices of smaller agencies which are not committed to the sector's systems of self-regulation.

According to Belgian law, agency workers have strict equal rights concerning salary, working conditions and working time. Workers also have recourse to a special joint mediation committee (la commission des bons offices/de commissie goede diensten) to assert any complaints or disputes. This body typically deals with issues such as late payment and non-payment of sickness or holiday pay. In Denmark, a particular issue of concern relates to deductions for transport, board and lodgings that agencies might apply to the pay of migrant workers. Another significant issue in Denmark is that white-collar agency workers are not covered by the Act on the legal relationship between employer and employee (Funtionærloven), which provides certain guarantees to such workers, including sickness pay pension, holiday and maternity benefits and a right to at least one month's notice of termination. Such rights are usually written into the collective agreement covering the agency worker, if such an agreement exists, but most agreements typically have qualifying periods of between six and nine months, which adversely affects agency workers on shorter assignments.

Other respondents referred to research linking a number of disadvantageous conditions to the intrinsically temporary nature of agency work, such as limited promotion prospects, changing job conditions and working time schedules, and access to bank credit and loans. Research in Estonia suggests that the temporary nature of agency work disadvantages some employees in terms of training. However there is little evidence of agency workers being paid less than permanent staff; indeed around a third of agencies pay higher rates than those applying in user companies with most of the remainder (60%) paying equivalent rates. In Latvia, where the development of TAW is in its early stages, it was reported that agencies were keen to ensure good labour standards in order to attract good workers and offer a better service to client companies. However, much of the demand for TAW is in jobs with low skill requirements and levels of pay. Similarly, in France, the issue is less one of differential treatment within the user enterprise, but rather one of the wider segmentation of agency work and its concentration in jobs and companies where both agency and permanent staff may have lower pay, and poorer working conditions and social protection than that enjoyed by workers in other sectors and firms.

Enforcement and sanctions

Overall responsibility for enforcing the regulations concerning TAW are usually shared between labour inspectorates (which monitor compliance with employment law), the authorities responsible for issuing any licenses, and tax authorities. In Romania, the primary responsibility for the supervision of TAW falls to the Ministry of Labour Family and Equal Opportunities (Ministerul Muncii, Familiei şi Egalităţii de Şanse, MMFES). In Estonia, the Labour Market Services and Benefits Act 2006 removed the licensing requirements and supervision of the sector by the Ministry of Social Affairs (Sotsiaalministeerium). There is now no specific control or enforcement mechanism other than the normal civil and criminal redress under general law and the self-monitoring activities of EPREL. However, in most countries, TAW falls under the remit of a general labour inspectorate that covers all workers. These include Austria, Belgium, the Czech Republic, Denmark, France, Finland, Germany, Greece, Hungary, Ireland, Latvia, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Slovakia, Slovenia, Spain, and Sweden (concerning the work environment). These monitoring activities will be supported by other state agencies, as well as by the employers' associations themselves, where licenses have to be issued. In Portugal, for example, TAW is covered by the general labour-law enforcement remit of the Authority for Working Conditions (Autoridade para as Condições de Trabalho, ACT), which recently initiated a tripartite working group to monitor health and safety matters regarding temporary work. The Institute for Employment and Vocational Training (Instituto de Emprego e Formação Profissional, IEFP) enforces specific rules for TAW concerning, for example, licensing requirements. This is supported by the self-regulatory activities of the employers' association APESPE (which in 2007 introduced an ombudsman to hear complaints from agency workers). In Slovakia, the National Labour Inspectorate (NIP) is empowered by Act 125/2006 to inspect employers with a view to enforcing labour legislation concerning employment and working conditions and health and safety. Act No. 5/2004 also obliges agencies to be licensed and submit reports to the relevant ministry (ÚPSVaR), which can apply its own sanctions for failure to meet these standards.

In Italy, where there is no specific inspectorate for leased labour, the labour tribunal decides on breaches of the law and has the authority to make a leasing contract void, or define it as 'irregular'. The leasing contract is void when it is not in written form or when it has the 'specific purpose of eluding mandatory provisions of the law or the collective agreement'; a leased worker is then considered in every practical sense a permanent employee of the user firm. A leasing contract is irregular if it has been stipulated by an unauthorized agency firm or in circumstances (for reasons) contrary to those envisaged by the law – if it is in breach of the quantitative limits set by collective bargaining, or if it lacks the mandatory elements (e.g. start date and duration of the contract, risks to the worker's health, and the preventive measures adopted). The worker can then lodge an appeal for an employment relationship to be established directly with the user firm. The legal sanctions in the case of irregular or void supply, which apply both to the agency and to the user firm, range from a minimum of €20 to a maximum of €50 for each worker involved and each day of leasing. The legislation also envisages an administrative sanction, to be paid both by the leasing agency and the user firm, ranging from a minimum of €250 to a maximum of €1,250, in cases of fraudulent behaviour.

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In Ireland, TAW is an important part of the responsibilities of the new National Employment Rights Authority (NERA) which was established by the Employment Rights Compliance Bill 2008. NERA employs 90 labour inspectors with a remit to ensure employer compliance across the range of Ireland's employment rights legislation. In the UK, where there is no general labour inspectorate, the Employment Agency Standards Inspectorate (EAS) has the power to investigate complaints and to undertake random checks on employment agencies. The Inspectorate was established in 1976 and operates an enquiry line which receives around 10,000 enquiries and 1,000 complaints each year. The number of inspectors is to double to 24 in 2008. More recently, the Gangmasters Licensing Authority (GLA) was established in 2005 following the death of 23 Chinese cockle pickers in Morecambe Bay. It has 19 intelligence, compliance and enforcement staff and is responsible for inspecting gangmasters in the agricultural and associated food processing sectors. There are currently 1197 gangmasters licensed by the GLA.

In Belgium, the Netherlands and Sweden, where collective bargaining assumes an important role in the regulation of TAW, the social partners have a clear role in monitoring TAW and may impose sanctions in addition to any penalties issued by the inspectorates. In Belgium, a mediation commission run by the social partners (Commission des bons offices/Commissie goede diensten) has the power to examine the legality of TAW practices in the event of any complaint. In the Netherlands, the labour inspectorate issues penalties for offences concerning working conditions, and the social partners also have an important role through the Foundation for Compliance with the Collective Agreement for TAW (Stichting Naleving CAO voor Uitzendkrachten, SNCU). The SNCU supervises compliance with the CLA provisions and can administer its own penalties and also seek redress through the courts. It has recently been active against the illegal employment of migrant workers by agency firms and has imposed heavy fines (NL0711019I). In Sweden, offences against the Act on Private Job Placement and Hiring-out of Labour is are addressed in the Swedish Labour Court (Arbetsdomstolen, AD), which has the power to issue fines which vary according to the nature of the offence. If any terms of the collective agreements are breached, the first stage is local negotiations then, if one of the parties wishes it, central negotiation. In the event of any offence against the law or collective agreement, in addition to any sanctions such as fines, the agency will lose its authorisation at the Swedish Association of Temporary Work Agencies.

General commercial and labour law applies to agency firms, in addition to any specific regulation of the sector through law or collective agreement. A range of sanctions is therefore available in most countries depending on the nature of any offence, with financial penalties and license removal the most commonly available to the authorities. In Austria, penalties due to breaches of the AÜG are administered by the relevant authority, with most offences attracting fines. Licenses may be revoked for the most serious infringements. The same applies to Germany, where the BA or taxation authorities have the power to fine companies under the AÜG up to specified limits. The BA is also empowered to revoke an agency's licence. In Luxembourg, sanctions for TAW firms are provided for in articles L.133-2, L.133-3 and L.134-3 of the Labour Code. These include: declaring a mission contract invalid; requiring payment of any wages, benefits or tax and social charges due; the application of fines; and suspension of termination of the regulatory approval required to operate as a TAW firm.

In Slovakia, the law allows for penalties of up to SKK 1,000,000 for breaches of labour legislation. In terms of offences against the more specific requirements necessary for agencies to legally operate as TAW firms, the ÚPSVaR may temporarily terminate or revoke the licence. In Slovenia, the LEUI defines the sanctions in terms of not meeting the administrative and related regulatory requirements for TAW, which include removal of the license, and other penalties are stipulated under labour inspection and general employment legislation. In Romania, Government Decision no. 938/2004 provides for two sets of fines for different offences. Failure to pay salary entitlements or to keep the authorities fully informed as required may incur fines in the range of RON 2,000–4,000; unlicensed activities attract fines of RON 10,000–20,000. In the Czech Republic, offences against the act on employment, which regulates TAW, may lead to the revoking of a license and financial penalties of up to CZK 2 million according to the offence.

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In Greece, violations of Law 2956/2001 attract fines administered by the Corps of Labour Inspectors (Σώμα Επιθεωρητών Εργασίας, SEPE). These may range from €2,936 to €29,360 according to the severity of the offence. Operating an unlicensed agency will also attract a fine and the possibility of up to two years imprisonment. Portuguese law 19/2007 provides for a number of sanctions in Articles 44 and 45, with the strongest penalties reserved for firms operating without a licence (and user companies that contract with unlicensed agencies) or assigning workers to potentially dangerous workplaces without the necessary training and equipment. In France, failure to adhere to the regulations can lead to sanctions which vary depending on the offence in question. In particular, the law stipulates that the assignment contract can be 'switched' to a permanent contract with the user enterprise in the event of any non-authorised use. The law also makes provision for criminal sanctions (in the form of fines or imprisonment) for breaches of the legislation.

Offences against the Swedish Act on Private Job Placement and Hiring-out of Labour are punishable by fines through the Swedish Labour Court. The sum of the penalty will vary according to the nature of the offence. Any problems associated with the application of the terms of collective agreements will ultimately be resolved by the National Mediation Office (Medlingsinstitutet, MI) and, where a collective agreement allows for it, the Labour Arbitration Court which also has the power to impose fines. Failure to respect the regulations will also lead to the withdrawal of an agency's authorisation. In Poland, TAW firms are liable to the same penalties, usually fines, as other employers where offences are made against the Labour Code or health and safety rules. For breaches of the equal treatment provisions of the law, agency workers are also entitled to seek damages from the agency (which may be recouped from the user company if it is at fault).

The Irish Employment Compliance Bill 2008 strengthens the powers of the Minister for Enterprise, Trade and Employment to initiate investigations and also provided for enhanced penalties of up to €250,000 and/or imprisonment in cases of serious offences. Employees may also receive compensation of up to two years' salary for breaches of employment rights offences, an entitlement which extends to those committed by TAW firms. In the UK, the EAS has the power to prosecute wilful breaches of the regulations or where cases of serious harm have arisen from a failure to meet them. In the most serious cases, the EAS may seek a Prohibition Order from an employment tribunal to require the agency to cease business. Between 1999 and 2004 there were 24 prosecutions and seven orders to cease business. In addition, the GLA has the power to revoke licenses and initiate prosecutions for gangmasters. To date, 55 licences have been revoked by the Gangmasters Licensing Authority and its first prosecution (for operating without a license) was brought in April 2008.

Summary

The detailed review of regulatory provisions in this chapter indicates that there is no shortage of formal regulatory provisions for TAW. In most countries, the law generally has a lot to say about equal treatment issues – especially pay, but also training, representation and other terms and conditions of employment. It is also commonplace for countries to have in place a number of other elements: legal rules governing agency firms' business activities and operating requirements, often under licensing schemes; commercial and employment contracts; reasons for using TAW and the length of assignments; and explicit prohibition in labour disputes. A number of countries have an active role for social dialogue in the formulation of the law, including those new Member States where legal frameworks were recently established or are in the process of being introduced.

Furthermore, collective bargaining is important in substantively regulating TAW in many countries. The above review highlights important examples of collective agreements at various levels; these concern such issues as:

- length of assignment (Belgium, Italy);
- the proportion of agency workers allowed (Austria, Germany, Ireland, Spain, Sweden);

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- the use of TAW in strikes (Denmark, Lithuania, Norway, Sweden);
- the employment contract (Netherlands, Sweden); and social security and benefits (Belgium, France, Netherlands).

In the important area of equal treatment, collective bargaining contributes to a number of key elements:

- the regulation of pay equality (Austria, Denmark, Germany, Italy, Luxembourg, Netherlands, Sweden);
- training (Austria, Belgium, Denmark, France, Italy, Luxembourg, Netherlands, Spain); representation (Belgium, Denmark, Italy);
- other conditions of employment (Netherlands, Italy).

The social partners also play a direct role in the enforcement of regulations in Belgium, the Netherlands and Sweden. In countries such as France and Belgium, collective bargaining complements a strong framework of legal regulation. In other cases, such as Denmark and the Netherlands, it is the primary mechanism for the regulation of TAW.

Conclusions

Temporary agency work is an important and growing industry in the EU, and is a sector at the heart of the 'flexicurity' debate. User companies increasingly use TAW for reasons of competitiveness as well as for the more traditional reason of replacing absent staff. This has raised trade union concerns over the treatment of agency workers, as well potential implications for permanent workers in the user enterprise, notwithstanding the need for reputable agency firms to attract good quality, reliable labour and ensure there is a floor under 'unfair' competition in the sector. Almost all countries have been active in seeking ways to reconcile employment protection with employment flexibility through TAW, whether by law, collective bargaining or some combination of both.

The growth of TAW is driven by a combination of demand-side and supply-side factors. In addition to its traditional use of covering for employees who are sick or otherwise absent from the workforce, increased competition and market uncertainty encourages user companies to make recourse to TAW for reasons of cost and flexibility. At the same time, it offers groups such as students, migrant workers, women returning from childcare breaks, and disabled and unemployed people access to the labour market. In principle, TAW can help workers develop their work skills and experience, thereby offering pathways into more secure employment. A common feature of TAW in the EU are that it often relies heavily on particular labour market groups, especially young workers, and particularly for jobs without high training costs. Given that this is an under-researched area, Eurociett and Uni-Europa launched their own joint research project on vocational training for temporary agency workers in 2008, which aims to identify and disseminate best practice.

There are clear differences between countries in the structure of the sector and patterns of TAW use. First, there is disparity at national level in the balance between large and small agency firms. Some countries have a highly concentrated market for TAW, dominated by the large multinational firms. These include France, the Netherlands, Spain and Belgium, and countries new to TAW such as Romania. In contrast, the UK has a very fragmented market for TAW services with small firms playing an important role, though the growth of the sector is also providing greater opportunities for smaller agency firms in other countries. Second, there is some variation between countries in the sector and occupational patterns of demand for TAW, which has implications for the gender distribution of agency workers. In Germany and Austria, for example, TAW is most often used for blue-collar work in metalworking and manufacturing; in Sweden, banking and finance is the biggest user of TAW.

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A third differentiating feature refers to the duration of TAW. French workers have the shortest assignments, with an average of 1.9 weeks. In Belgium, only a quarter of assignments last for longer than six months. However a second, smaller group of countries has a more significant incidence of longer-term assignments. In the UK, for example, nearly one in five agency workers have been on an assignment for 18 months or more. There are also differences in how long workers remain in the TAW sector, though data is limited here. This ranges from an average of between three and fourth months in Norway, Hungary and Luxembourg; in Slovakia, three in five workers depart the sector within six months. In contrast, in Belgium, a significant proportion of agency workers are likely to take successive contracts: three-quarters have been engaged in agency work for over a year, and one in three for more than five years. How far such patterns are a function of choice or opportunities is not clear.

The most obvious difference between countries however concerns the form and substance of regulation. On the whole, TAW is a largely highly regulated industry involving a mix of legislation, collective labour agreements and instruments of self-regulation at national level. However, agency work is also heterogeneously regulated across Europe. Different Member States have different traditions of labour market regulation, and different policy preferences concerning the balance between employment flexibility and security. There are differences in what is regulated – for example, whether or not this embraces reasons for using TAW, prohibited sectors, maximum assignment length, or stipulations concerning the employment contract, training and representation rights. There are also important differences concerning how this regulation is developed and implemented, most notably the role played by social dialogue and collective bargaining.

As the review of regulatory outcomes shows, in most cases it is the law that has primacy in the regulation and enforcement of the key terms and conditions of TAW. However, collective bargaining is an important regulatory mechanism in the ‘old’ Member States. Most of the EU15 have sector-level bargaining for TAW, with the UK constituting the exceptional case from the largest economies or users of TAW. Furthermore, sectoral-level bargaining may also be complemented at macro-level by institutions for intersectoral social dialogue and tripartite negotiation on the one hand, and by collective bargaining at company level or at through sector agreements that apply at the user firm on the other. In Denmark, collective bargaining operates at several levels (the sector, agency and user company) as an effective substitute for regulation by law. In Germany and the Netherlands, sectoral-level agreements provide a robust framework for the regulation of the sector whilst permitting deviation by agreement from some legal requirements, notably equal treatment with comparable permanent employees. In other countries, such as Austria, Belgium, and Sweden, sectoral-level collective bargaining acts as an important additional mechanism to what is already a strong framework of law – for example, by acting to extend the principle of equal treatment concerning pay between assignments and addressing issues such as training, working conditions and employee consultation.

In contrast, the NMS have virtually no arrangements for collective bargaining in the regulation of TAW, though most have introduced relatively strong legal frameworks in recent years. In these countries, TAW regulation has emerged with the growth of the industry, and there is sometimes a role for social dialogue in the development of the law. Only the handful of countries without any TAW is currently without a legal framework, and in most of these cases the social partners have been closely involved in policy discussions. The EU-level social partners, Eurociett and Uni-Europa, which have achieved significant success in developing meaningful social dialogue at European level, have also been actively committed to introducing national-level social dialogue on TAW. In particular, a series of Round Tables have been set up with the help of the European Commission to further develop sector-level bargaining and social partner organisation. (Round table events gathering sectoral social partners, government officials and industry representatives have been organised so far in Poland (2006) and Hungary (2007). The organisation of further Round Tables is included in the 2008/2009 Sectoral Social Dialogue Work Programme).

However, at present, the TAW industry faces a lack of representative trade union organisation in the NMS. A key problem in the regulation of the sector by the social partners is not just the weak tradition of sectoral-level bargaining, but a lack of trade union organisation for agency workers. Agency workers are fairly well organised in some countries, notably

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Belgium, Denmark, Finland and Sweden, but in most a combination of high employment turnover and low union membership means they face a double representation gap in both the employing agency and the user firm. Research also suggests that agency workers may have limited knowledge of their rights or the means to apply them. This makes the mechanisms of regulatory enforcement – which most countries pursue through sector-specific licensing arrangements plus monitoring by labour inspection agencies – all the more important.

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