

## How temporary agency work compares with other forms of work

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## Executive summary

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### **A study to compare temporary agency work (TAW) with other forms of work: getting a clear picture of the dynamics in the labour market**

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Different forms of work are coexisting in the European Labour market. These forms of work differ in various aspects, such as, among others, the length of assignments, the contractual arrangement and the access to social protection. These forms of work are regulated at EU level and at national level.

During the last decades, changes occurred in the European labour market. Indeed, while full-time open-ended contracts remain the most widespread contractual arrangement, over time they are being complemented by other forms of employment. An increase in part-time work occurred in the last years and the line between different forms of work is blurring, e.g. temporary agency workers can also be employed with open-ended contracts. Understanding the changes in the labour market is the key to ensure the development of sound policies that aim at enhancing the protection of workers as well as improving the overall efficiency of the labour market.

In this view, it is important to get a clear picture of the evolution of the size of the different forms of work, the working conditions they provide and their contribution in the labour market.

In this context, the main objective of this study is to compare TAW with other forms of work with respect to the following topics:

- ▶ The size and evolution;
- ▶ The EU regulation;
- ▶ The effective working and employment conditions.

The study focuses on the comparison of TAW with three other forms of work that have an important place in the labour market: open-ended contracts, fixed-term contracts (FTCs) and self-employment. In order to compare TAW with these forms of work, three different types of methodological analysis have been conducted:

- ▶ Desk-research and data analysis;
- ▶ Survey conducted among the Eurociett and UNI Europa members;
- ▶ Case study analysis.

This executive summary briefly presents the main results of the study.



## **TAW still represents a small share of total employment and has evolved discontinuously during the last decade**

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### **The share of TAW is small when compared to other forms of work**

Regarding the EU-27, TAW accounted for 1.8% of total employment in 2012. The share of TAW remains relatively small compared to other forms of work: in the EU-27, open-ended contracts accounted for around 75% of total employment in 2013 while the share of temporary employment<sup>1</sup> and self-employment amounted respectively to around 11% and 14%.

### **At EU-level, no specific form of work strongly increased at the expense of another form of work in the last decade**

Between 1998 and 2012, the share of TAW in total employment increased by 1 percentage point in the EU-15. However, recent evolutions show contrasting dynamics: the penetration rate of TAW was growing from 2003 to 2007, but the crisis of 2008 had a negative impact on this trend. Between 2003 and 2012, the penetration rate increased only by 0.4 percentage point in the EU-15. Therefore, we can conclude that there is not a strong structural growth of TAW in the European labour market.<sup>2</sup>

Regarding the other forms of work, in the EU-15, the following evolutions occurred from 1996 to 2013:

- ▶ The share of open-ended contracts decreased by 1.4 percentage points;
- ▶ Temporary employment increased by 1.9 percentage points;
- ▶ Self-employment decreased by 0.5 percentage point.

While the labour market is currently changing (e.g. increase in part-time work, blurring lines between some forms of work, etc.), we cannot conclude that a strong growth of a specific form of work occurred at the expense of another form of work at EU level. Indeed, all forms of work evolve, in absolute terms, in a same direction that is determined by economic conditions. Moreover, in relative terms, there are discontinuous evolutions (e.g. drop in TAW during the crisis, etc.) in the labour market.

### **At national level, distinct profiles and strong dynamics might be identified**

Different profiles (in terms of share of the forms of work) and dynamics may be distinguished among the European countries:

- ▶ Some countries are characterised by a particularly high share of a given form of work: e.g. in Spain and in Italy, self-employment accounted for respectively around 22% and 15% of total employment in 2013 (for around 11% in the EU-15);
- ▶ Distinct dynamics occurred in the labour market during the last years: e.g. in France and in Spain, a strong increase of fixed-term contracts of short duration (less than one month) occurred. In the Netherlands, a decrease in the share of open-ended contracts may be pointed out (-8 percentage points between 2001 and 2013).

The share and the evolution of the different forms of work might be explained by the evolution of some key indicators, such as the GDP growth rate. Moreover, existing regulations on the different forms of work might explain some of the differences in the relative size: e.g. the relatively smaller share of TAW compared to the share of FTCs might be the consequence of a stricter regulation on TAW.

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<sup>1</sup> The category "temporary employment" does not only represent fixed-term contracts. Temporary agency work is part of this category. No harmonized EU-data are publicly available for fixed-term contracts only.

<sup>2</sup> However, it is important to point out that these general findings hide several disparities between countries. As an example, in Germany, the penetration rate of TAW increased by 1.7 percentage points between 1996 and 2012 while, in Spain, the penetration rate of TAW was similar in 2012 than in 1998. In 2012, the penetration rate of TAW amounted to 2.8% in the Netherlands in 2012 while it was only 0.5% in Spain in the same year.



## **TAW plays a key role in the labour market**

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Despite the very slow growth (in stock) registered in the last decade, TAW plays an important role for firms, workers and the labour market as a whole. TAW is characterized by a triangular relationship, between a user undertaking, an employee and an agency.

### **TAW offers firms the required flexibility to face changes in demand and provides firms workers with the required qualifications and skills**

First, TAW allows facing temporary increase (or decrease) in demand due to, among other reasons, changes in economic conditions. The strong positive correlation between the evolution of TAW and economic conditions is confirmed in the study and indicates that firms rely on TAW to adapt to economic changes.

Secondly, in some countries, systems have been developed by social partners in order to reduce the cost of TAW for the user undertakings while offering more employment security to workers. For example, in Germany, collective labour agreements allow combining lower costs (derogation from the principle of equal treatment in pay in Germany) while guarantying employment and social protection stability for the workers (open-ended contracts for agency workers in Germany). In the Netherlands, the social partners in the TAW sector built a system where a high degree of flexibility is offered in the first phase while the accumulation of worked days then leads to an increase in employment and income protection.

Thirdly, TAW allows firms to hire candidates with the desired qualifications and skills. Indeed, agencies put efforts in building the qualifications and skills of the workers and in matching them with the profile desired by the firm. In the TAW sector, several initiatives have been developed by social partners (bipartite funds or bodies) in order to enhance access to training for agency workers.

### **TAW acts as a bridge from unemployment to work and offers workers flexibility in working time and diversity in working experience**

Regarding the workers, the study has highlighted some of the key roles played by TAW. First, temporary agency work facilitates the transitions from unemployment to work both at short term and when considering a longer time span.

- ▶ In France (2012) and in Germany (2011), 60% of the temporary agency workers were unemployed before entering temporary agency work. When considering a longer time span, it appears that the bridging effect from unemployment to work still remains in some countries: e.g. in France, one year after entering TAW, 68% of the workers were still employed (TAW, fixed-term or open-ended contracts).
- ▶ Another study in France indicates that, among a pool of unemployed workers in 2012, 54% of former temporary agency workers were employed again one year later against 43% for FTCs. However, when looking at the perceptions of the workers, the results of the EWCS (2010) show that, at EU level, temporary agency workers have a higher perceived risk of costly job loss (i.e. a high perceived risk of job lost and a low perceived re-employment probability) than other workers.

Other studies show that, in comparison to other forms of temporary work or in comparison to unemployment, TAW can be more efficient in facilitating transitions to open-ended contracts.

Furthermore, some workers enter TAW because they are looking for flexibility in their employment. TAW offers them flexibility in their working time and the opportunity to gain diverse working experience.

Students use TAW as a bridge from education to work. Finally, for those who enter the labour market for the first time, TAW allows them to acquire a first relevant professional experience that can help them to enhance their position in the labour market.

### **TAW helps to increase the participation rate and to fight undeclared work**

Regarding the labour market as a whole, the following results might be pointed out:

- ▶ The share of temporary agency work is positively correlated with the share of the activity rate: the activity rate tends to be higher in countries where the share of temporary agency work is high.
- ▶ In countries where it is easier to resort to TAW have smaller undeclared economies. These results might emphasize the role of TAW in increasing labour force participation rate and in fighting undeclared economy.



## **TAW is broadly regulated at EU level and several restrictions on the use of TAW are in place**

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### **EU regulations provide a common ground in regulating the forms of work but leave room for national specificities**

Open-ended contracts are often considered as the “general employment contracts” and are therefore under the scope of all the earliest directives related to working and employment conditions. Then, a trend occurred towards specifically considering other forms of employment: i.e. the directive on temporary agency work (2008/104/EC) and the directive on fixed term work (1999/70/EC) have been implemented.

European regulations give an important role to social dialogue / social partners in establishing the different rules that determine the working and employment conditions of the forms of work. Moreover, in some directives, several derogations or exemptions can be accepted in case social partners at national level reach agreements that differ from those described in the directive, which reinforce the role of social partners.

Despite this common ground, regulations on various topics still differ widely between the EU countries: some directives allow derogation in their implementation and various topics are still mostly regulated at national level.

### **The principle of equal-treatment is generally implemented**

In 2008, the directive 2008/104/EC on temporary agency work has been implemented. In particular, the directive aims, among other objectives, at establishing the principle of equal treatment of agency workers with employees in user undertakings and at establishing a suitable framework for the use of temporary agency work with a view to contribute effectively to job creation and to the development of flexible forms of work. Another directive, aimed at protecting the health and safety of temporary agency workers, has been implemented: the directive on Health and Safety in Fixed-Term and Temporary Employment (91/383/EEC).

The review of the implementation of the directive indicates that there have been some improvements in regulating TAW. Furthermore, as allowed in the directive, some derogations to the provisions of the directive (scope of the directive, equal treatment, etc.) have been reached through social partners' agreements in various countries (Austria, the Netherlands, Germany, etc.).

The review of the restrictions/prohibitions (sectoral restrictions, maximum length of assignment and maximum number of renewals, etc.) in the Member States show that several restrictions on the use of TAW remain in place, however the situation widely differs across various countries. In this context, it must be ensured that these restrictions do not hamper the contribution of TAW to job creation and to improve the functioning of the labour market.

### **The principle of non-discrimination is implemented**

FTCs are mainly regulated at the European level by two directives: the directive on fixed-term work (1999/70/EC) and the directive on Health and Safety in Fixed-Term and Temporary Employment (91/383/EEC). The directive on fixed-term work has two specific goals: to ensure that fixed-term workers do not suffer unjustified discrimination and to prevent the abuse of successive fixed-term contracts between the same employer and employee for the same work.

The principle of non-discrimination has been implemented in all Member countries. Regarding the utilisation of conditions/restrictions on the use of fixed-term work, it appears that “objective reasons for the use” and “limitations on contract renewal or duration” are in place in various countries. However, a wide diversity remains regarding the specific provisions related to maximum length of duration, the number of renewals, etc.

When comparing TAW and FTCs, it appears that additional restrictions exist for temporary agency work (sectoral restrictions, etc.), while these restrictions do not exist for fixed-term contracts.

### **Self-employment is barely regulated at EU level**

EU regulations cover only aspects related to the ease of free movements of self-employed and aspects related to the equal treatment in maternity benefits (see directive 2010/41/EU). Regarding the other topics, regulations exist exclusively at national level.



## TAW and open-ended contracts offer comparable rights regarding key aspects in employment and working conditions

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### TAW provides similar access to social protection as open-ended contracts

In the countries covered by the survey conducted for this study, temporary agency work and fixed-term contracts provide similar conditions of access and similar provisions as open-ended contracts with regards to unemployment benefits, sick benefits, maternity leave, healthcare and pension's benefits. In comparison, self-employment offers much less protection in this respect than open-ended contracts, TAW and FTCs. The differences are particularly striking with regards to unemployment benefits, sick benefits, maternity leave and pension's benefits but tend to be smaller with regards to healthcare.

### The effective access to social benefits might be difficult for workers with contracts of short duration: this is why portability of rights is important

While access to social protection of TAW and FTCs is similar to that of open-ended contracts, the access to social benefits in practice might be difficult for temporary employment (fixed-term contracts or TAW) of short duration:

- ▶ The required accumulation of worked days or amount earned ("thresholds") that gives access to social benefits (pension's benefits, unemployment benefits, etc.) can be difficult to reach.
- ▶ In case of contracts of very short duration, illness or pregnancy may have a negative impact on the worker: social benefits might stop if the contract stops and a new contract might not be given to the worker.

In this view, it may be important to provide additional compensations in some cases and to ensure the portability and the effective accountability of the rights accumulated under different contracts of short duration. The portability of rights must be insured both within a given form of work (e.g. the TAW sector has paved the way in this respect in some countries) and between the different forms of work (from TAW to other forms of work) in order to protect workers with different contracts.

### In the TAW sector, social partners developed initiatives aimed at enhancing social protection of workers with a contract of short duration

Regarding the TAW sector, several bipartite bodies or funds have been developed to provide compensations for workers with contracts of short duration and to ease the portability of rights within the temporary agency sector. It appears that such initiatives do not exist at such a scale for fixed-term contracts (or self-employment).

Below, we quote some of the initiatives / provisions developed by social partners in the TAW sector (other initiatives can be found in the report):

- ▶ With regards to **sick benefits**:
  - ◆ **In Belgium**, a collective labour agreement has been designed and implemented in order to further protect the agency workers: they now receive additional compensation from the agency during the first 30 days of their incapacity.
  - ◆ **In France**, collective agreements have been concluded between social partners in order to provide additional compensations in case of illness or accident. The organisation in charge of managing these additional compensations is called "Reunica". In case of strong disability, an annuity is also paid if the agency worker warrants 1.800 hours of service in the profession during the 24 months prior to the work stoppage.
  - ◆ In **the Netherlands** a Collective Labour Agreement (CLA) provides additional provisions for workers in "phase A" (i.e. workers who have accumulated few working days, see section 5.3).
- ▶ With regards to **healthcare**, in **Italy**, additional protection, regarding e.g. dental care or surgery, are offered to temporary agency workers.
- ▶ With regards to **pension's benefits**:
  - ◆ In **France**, a single pension fund for temporary agency workers has been set up. This eases the compilation of all the career paths of workers and informs workers about their current situation, in terms of pension's rights.
  - ◆ In **Italy**, an additional private pension fund (FONTEMP) has been set up to allow temporary agency workers to benefit from additional provisions.



## **TAW performs particularly well for vocational training and health and safety conditions**

### **Open-ended contracts provide in general better basic working and employment conditions than other forms of work**

With regards to basic working and employment conditions (i.e. working time, broadly defined in the context of the study, and pay), it appears that open-ended contracts provide in general better conditions than the other types of contracts:

- ▶ When focusing on working time, the indicator of Working Time Quality (scheduling, flexibility on hours worked, etc.) developed by Eurofound, indicates that open-ended contracts and self-employment offer better working time quality than fixed-term contracts and, to a slightly lesser extent, than TAW. The high score for self-employed might be explained by the flexibility it offers in the scheduling of the working time.
- ▶ When looking at pay and when comparing temporary agency workers with fixed-term employees, the results of the 5<sup>th</sup> European Working Conditions Survey (EWCS) conducted in 2010 by Eurofound show that the proportion of temporary agency workers who earn more than €9.000 per year is higher than when considering fixed-term contracts (46% vs. 40%) but smaller than when considering open-ended contracts or self-employed (74% for open-ended contracts and 68% for self-employed).

It is important to notice that there are wide methodological issues in assessing the working and employment conditions between different forms of work. Indeed, differences between forms of work may be due to other factors than the contractual arrangement itself: e.g. the sector, the occupation or the age of the worker can have an impact on key aspects of working and employment conditions (such as pay). If the workers' characteristics are not equivalent from a form of work to another, it turns out to be difficult to isolate the differences that are effectively due to the contractual arrangement.

### **Temporary agency workers feel less at risk at the workplace than other workers and social partners developed initiatives specifically dedicated to agency workers**

First, with regards to the initiatives developed by social partners, the results of the survey conducted in the context of this study indicate that:

- ▶ For open-ended contracts, TAW and fixed-term contracts, it appears that social partners developed initiatives in around 50% of the countries covered by the survey. However, in the TAW sector, initiatives dedicated specifically to temporary agency workers exist while such specific initiatives do not exist for FTCs.
- ▶ With regards to self-employment, fewer initiatives are developed in the surveyed countries.

According to the results of the EWCS (2010), temporary agency workers feel less at risk than other workers: 79% of temporary agency workers declare that their safety is not at risk at work, while this percentage amounts to 76% for open-ended contracts and fixed-term contracts and 72% for self-employed.

### **A large majority of temporary agency workers had undergone training in the last 12 months and initiatives developed by social partners facilitate access to this training**

First, the results of the survey conducted for this study indicate that:

- ▶ On average, fixed-term contracts and temporary agency workers have slightly less access to vocational training than workers under open-ended contracts.
- ▶ However, the number of countries in which some initiatives are developed by social partners in order to enhance the access to vocational training is similar for open-ended contracts, fixed-term contracts and temporary agency work.
- ▶ In comparison to TAW, it appears that, in general, fewer specific initiatives or funds seem to exist in order to facilitate the access to training for employees with fixed-term contracts. For example, in the Netherlands, a bipartite institution ("STOOF") aims at enhancing the access to vocational training for temporary agency workers. Such an institution does not exist at such a scale for FTCs.
- ▶ Self-employed have less access to vocational training and fewer initiatives are developed for these workers by social partners.

These results are confirmed by the EWCS (2010). According to the EWCS (2010), a large majority of temporary agency workers (77%), workers with open-ended contracts (82%) and with fixed-term contracts (78%) had



undergone training in the last 12 months (including self-paid training and on the job training). The proportion of self-employed having undergone training in the last 12 months is much smaller (55%).

**Temporary agency workers have access to representative's bodies at various levels**

In a majority of the countries considered in the survey, workers with open-ended contracts or fixed-term contracts and temporary agency workers have access to representatives at national, sectoral and firm level. Regarding self-employment, in a large majority of surveyed countries workers have no access to representatives.



## **The development of unique bipartite bodies/funds is a key feature of TAW and a key point of distinction in comparison to other forms of flexible work**

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### **Social partners develop unique bipartite bodies/funds in the TAW sector**

As presented before, in order to enhance protection of agency workers (particularly those with contracts of short term duration), the social partners developed initiatives in the temporary agency sector of various countries (France, Netherlands, Belgium, Italy, etc.). These bipartite bodies or funds aim at enhancing access to social protection for agency workers. The social partners also developed bodies and funds in order to enhance working conditions of workers (e.g. development of funds for vocational training, etc.). These initiatives cover all agency workers, regardless of the user company where they are assigned.

It appears that comparable provisions do not systematically exist for standard fixed-term contracts or self-employment, which tends to indicate that the particular employment relationship induced by agency work (triangular relationship) helps to develop provisions aimed at enhancing working conditions of workers.

### **The triangular relationship allows the development of unique bodies or funds: it constitutes a key difference with respect to other forms of flexible work**

The development of such unique bodies / funds is fostered by the triangular relationship of TAW: the intermediary role of the agencies as well as the active role of the social partners is fundamental. The same does not exist when considering fixed-term contracts (FTCs group various types of contracts, in various sectors) or self-employment. The diversity in fixed-term contracts (or self-employment) and the lack of unique intermediaries make it difficult to develop unique organisations or funds for those workers.

It is moreover important to notice that the intermediation in the TAW sector also allows for the privatization of the bodies / funds: e.g. in France, the organisation that allows a better registration of the career paths of the TAW workers is privately funded, which offers the opportunity to not increase public spending in compiling career paths of workers accumulating different contracts.

In this view, the strength of TAW, with respect to other forms of flexible work (i.e. standard fixed-term contracts or self-employment), lies in the fact that the triangular relationship facilitates the creation of systems and initiatives that allow to combine flexibility and enhancement of working and employment conditions.