



Temporary agency work in an enlarged European Union



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European Foundation for the Improvement of Living and Working Conditions

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Foreword

The regulation of temporary work at European level has been contentious for over twenty years, from the time the Commission first proposed a directive in the area in 1982. The main concerns centre around how best to balance employment creation and flexibility, on the one hand, with employment protection and security on the other. The debate over temporary work is at its most acute in the case of temporary agency work (TAW). The issue of equal treatment between temporary and permanent staff is, due to the triangular nature of the contract, a complex one and therefore difficult to regulate uniformly.

The European social partners UNICE, CEEP and the ETUC signed an inter-sectoral agreement on fixed-term work in 1999, paving the way for a directive in 2001. After considerable debate, the sectoral social dialogue committee for TAW finally negotiated and agreed a joint declaration concerning the 'Objectives of the European Directive on Private Agency Work' in October 2001. However, due to differences of opinion over the issue of comparability and equality of terms and conditions of employment – particularly pay – between agency workers and employees in the user firm, the Directive was never officially negotiated at sectoral level.

In 2002, the Commission took the initiative to propose a draft directive on TAW, endorsing the principle of non-discrimination between temporary agency workers and 'comparable workers' in the user firm, subject to certain limitations and exemptions. However, objections were raised by several Member States and little progress was made on the issue. Eventually, in September 2005, the Commission indicated that it would rethink proposals for intervention in this area as part of its 'better regulation' initiative.

Given this evolving context, the Foundation deemed it opportune to revisit the subject of temporary agency work, which it first systematically addressed in a comparative study by the European Industrial Relations Observatory (EIRO) of the EU15 undertaken in 1999. The enlargement of the Union from 15 to 25 countries in May 2004 has reinforced the need for further research, not least since TAW has been a rapidly expanding phenomenon in many of the new Member States.

This report, commissioned by the sectoral social dialogue committee on temporary agency work, is based on an EIRO comparative study of temporary agency work in the enlarged EU. The questionnaire survey gathered responses across 28 countries – the 25 EU Member States, as well as Norway and the acceding countries Bulgaria and Romania. The report explores a range of topics including the definition and extent of TAW, its regulation in the different countries, both by law and collective agreement, and the views of the social partners on developments in the sector. The findings have been supplemented by further data and detailed comments received from the social partners at both national and confederal levels (Eurociett and UNI-Europa), which were closely involved in the production of both the national and the overview reports from the very outset.

We trust that the report will provide a useful insight into the situation regarding temporary agency work across the European Union and will hence contribute to the current debate on the issue.

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Main abbreviations used

CEEP	European Centre of Enterprises with Public Participation and of Enterprises of General Economic Interest	Country codes	
EIRO	European Industrial Relations Observatory	EU25	
ETUC	European Trade Union Confederation	AT	Austria
EU15	15 EU Member States before May 2004	BE	Belgium
EU25	25 EU Member States from May 2004	CZ	Czech Republic
Eurociett	European Confederation of Private Employment Agencies	CY	Cyprus
FTC	Fixed-term contract	DK	Denmark
ILO	International Labour Organisation	EE	Estonia
NC	National centre (of the EIRO network)	FI	Finland
NMS	New Member States (10 Member States that joined the EU in May 2004)	FR	France
LFS	Labour Force Survey	DE	Germany
TAW	Temporary agency work	EL	Greece
TWA	Temporary work agency	HU	Hungary
UNICE	Union of Industrial and Employers' Confederations of Europe	IE	Ireland
Uni-Europa	European regional organisation of Union Network International, which groups service sector and white-collar trade unions	IT	Italy
		LV	Latvia
		LT	Lithuania
		LU	Luxembourg
		MT	Malta
		NL	Netherlands
		PL	Poland
		PT	Portugal
		SK	Slovakia
		SI	Slovenia
		ES	Spain
		SE	Sweden
		UK	United Kingdom
		CC2	
		BG	Bulgaria
		RO	Romania
		NO	Norway

Introduction

Temporary work embraces a variety of forms. The most traditional form is casual labour, which remains common, especially for low-skilled work in sectors such as agriculture and construction. Increasingly familiar is direct employment on fixed-term contracts (FTCs), often associated with white-collar work as well as regular seasonal employment in other occupations. However, the most recent and rapidly growing form of temporary employment in many countries is temporary agency work (TAW), which involves the supply of workers by firms for assignments with client organisations.

The regulation of temporary work has been a contentious issue at European level for nearly a quarter of a century, ever since the Commission first proposed a Directive in the area in 1982. The transformation of product and labour markets since that time has only intensified debate on how best to balance employment generation and flexibility, on the one hand, with employment protection and security, on the other. Trade unions have concerns that temporary workers might suffer lower pay and benefits than permanent employees, that they could be exposed to greater health and safety risks, and that they enjoy fewer representation, training and development opportunities.¹ Employers would contest this, and indeed refer to the appeal of temporary work to certain labour market groups as well as the competitive advantages offered to employers.

Arguably, the controversy over temporary work is at its most acute in the case of TAW. This form of employment is uniquely differentiated from other forms by its triangular nature, and hence more complicated. Although the agency is the normal legal employer of temporary agency (TA) workers (whether on an FTC or, more unusually, an open-ended basis), the work that they do and the workplaces to which they are assigned are the responsibility of other organisations. The issue of equal treatment between temporary and permanent staff is, in particular, potentially more ambiguous and, by implication, difficult to regulate uniformly.

An intersectoral agreement on fixed-term work was reached by the European-level social partners UNICE, CEEP and the ETUC in 1999, paving the way for a directive in 2001, though talks on agency work broke down. The newly created sectoral social dialogue committee on TAW was suspended between its inception in July 2000 until June 2001, following cross-industry negotiations on a framework agreement on temporary work. After the failure of these negotiations, the sectoral social dialogue resumed in order to negotiate and agree a joint declaration concerning the 'Objectives of the European Directive on Private Agency Work' on 8 October 2001.² However, the directive was never officially negotiated at sectoral level. The primary sticking point in discussions was the issue of comparability and equality of terms and conditions of employment, particularly pay, between agency workers and direct employees in the client firm, and the qualification period required for TA workers to benefit from such equal treatment.

The Commission, therefore, took the initiative to propose a draft directive on TAW in 2002, citing the Lisbon commitment to more and better jobs.³ The draft directive endorsed the principle of non-discrimination between TA workers and comparable workers in the user undertaking, subject to certain limitations and exemptions. Most notably, differential treatment could be permissible in

¹ On training, see European Foundation for the Improvement of Living and Working Conditions, 2005.

² www.ciett.org/download.php?file=jointdeclarationeudirectivefinal.doc&upath=/shared_resources/uploads/euro_ciett/position/

³ http://europa.eu.int/eur-lex/lex/LexUriServ/site/en/com/2002/com2002_0149en01.pdf

the first six weeks of employment; in situations where a collective agreement exists; where there is no objective basis for comparability; and where TA workers are employed on open-ended contracts by their agency and provision is made for payment between assignments. However, little progress was made due to the objections of some Member States. Eventually, the Commission indicated in September 2005 that it would rethink proposals for intervention in this area as part of its 'better regulation' initiative.

Given this evolving context, it was considered both timely and important for EIRO to revisit the subject of TAW, which it first systematically addressed in a study of TAW in the EU15 undertaken in 1999 (Storrie, 2002). The enlargement of the Union from 15 to 25 countries in May 2004 reinforced the need for further research, not least since TAW was rapidly expanding in many of the new Member States (NMS). This report is based on questionnaire responses from 28 EIRO national centres – the EU25 plus Norway and the acceding countries Bulgaria and Romania. The survey examined a range of issues, including the definition and extent of TAW; its regulation in the different countries, both by law and collective agreement; and the views of the social partners on developments in this form of employment relationship. The strengths of the original research reflect not just the comprehensive coverage of the countries and scope of the questionnaire, but that the EIRO network of national centres (NCs) offers an experienced pool of employment and labour market scholars, facilitating the collection of detailed and contemporary data.

At this point, two important caveats must be noted. First, it is not possible to do full justice to the data gathered in an overview report of this nature. Readers are invited to consult the original NC reports for further detail on specific issues or to explore other areas of the questionnaire not covered at length here.⁴ Second, the level of detail required of national respondents contributed to some variation in the quality or completeness of national reports. However, to help ensure the source material was as robust as possible in the circumstances, the social partners were invited to provide direct comment and supplementary material to the NC reports.⁵

The result of this detailed consultation exercise was a useful recalibration of the data, with some correction and completion, but also in large part a corroboration, of the source material that serves to endorse the efforts of the NCs. However, some gaps inevitably remain, given discrepancies in the availability of statistical and other objective research evidence that, in itself, serves as commentary on the diversity between countries in the development and level of maturity of this employment form. Again, this reinforces the purpose of this overview report as describing the core themes and patterns emerging from the NC and social partner contributions. It is analytical in the sense of classifying, synthesising and making sense of abundant material rather than developing or offering explanations for what is observed.

The report is organised into three main sections. Chapter 1 profiles the nature and extent of TAW, examining the significance of TAW in each of the countries and charting the key employment

⁴ The 1999 study, the national reports and the questionnaire on which the present research was based may be consulted at the EIRO website (www.eiro.eurofound.eu.int). The website also contains feature articles relating to important developments in the law or collective bargaining concerning TAW since 1997, at both intersectoral and national levels.

⁵ The research was conducted under the supervision of a steering party made up of social partner representatives from the sectoral social dialogue committee, which also consulted affiliates at national level. Comments were received on the original national centre reports and on the overview document. Submissions were received from Eurociett and each of its affiliates (Austria, Belgium, the Czech Republic, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, the Netherlands, Norway, Poland, Spain, Sweden and the UK); and from Uni-Europa and its affiliates in Luxembourg, Sweden and the UK.

characteristics in terms of sectoral and occupational distribution, duration of assignments, and composition of the TA workforce. Chapter 2 explores the legal frameworks that apply in the regulation of TA work. Chapter 3 looks at modes of self-regulation, particularly in the form of collective bargaining at national sector level. In each chapter, the 'old' Member States (plus Norway) are reviewed apart from the 'new' Member States and Bulgaria and Romania. This reflects broad differences between the two groups in the maturity and constitution of this employment status, as well as discrepancies in the availability of data.

Nature and extent of temporary agency work

The purpose of this chapter is to offer a snapshot of temporary agency work (TAW) in Europe. Although a detailed overall picture emerges, direct comparisons are to some degree limited by inconsistencies in the measurement and presentation of data across the different countries. Moreover, in the absence of adequate official statistics, national centres quite rightly draw upon data from employer organisations or other research findings, introducing still more methodological uncertainty and necessary caution in interpreting the results.

The chapter begins by examining TAW in the EU15 plus Norway, where data tend to be more readily available, followed by the 10 new Member States (NMS) plus Bulgaria and Romania. For reasons of brevity, sources and notes attached to statistical tables are provided in Appendix 1. Unless otherwise stated in the notes, all figures refer to 2004.

EU15 and Norway

Extent and growth

The presence of TAW can be measured in various ways: absolute and relative number of employees, number of active firms, and overall economic value. Table 1 provides relevant data on employment and undertakings for the EU15 plus Norway. The figures show that the segment is small in relative terms, accounting for between 1% and 2% of employment in most cases. However, this translates into some 2.5 to 3 million (full-time equivalent) employees, employed by approximately 20,000 firms, in a segment with a likely annual turnover in excess of €75 billion across the 16 countries concerned.

Where figures are provided, the smallest proportionate users appear to be Denmark, Finland and Italy, where TAW was first permitted only in 1997. In Greece, TAW is marginal, used by only 0.3% of enterprises in 2002, with the necessary legislative framework being introduced in 2001. TAW received a boost in that country in 2004 during the staging of the Athens Olympic Games, though it is too soon to report whether this was short lived. The biggest users of TAW include the UK, the Netherlands, France and Belgium. Also interesting is Luxembourg, where reasons of geography enable 80% of TA workers to be 'frontier workers' who do not reside in the country. In 2001, around 70% of TA workers in Luxembourg were French nationals, 8% were Belgians and only 2.8% were Luxembourg citizens.

TAW has expanded rapidly in almost all countries, especially in the mid- to late 1990s. Portugal saw an increase of over 50% in the number of TA workers between 1997 and 2002. In Austria, there were 593 agencies in 1996 supplying 14,548 workers to 4,190 user companies. By 2004 – following growth that was sustained throughout that eight-year period – the number of agencies and workers had almost trebled and the number of user companies had grown to 14,341 companies. Sectors currently expanding their use of TAW at rapid rates include the metal and electronics industries, with a respective 32% and 27% increase in 2003–4. Other countries that have also demonstrated growth since 2000 include Ireland, where GDP growth of some 5% per year contributed to a 68% increase in TAW placements between 2002 and 2003; Finland, where TAW employment doubled between 2001 and 2004; and Luxembourg, where the number of TA workers almost doubled between 1998 and 2003. Of course, in many cases, this strong rate of growth may not translate into a significantly bigger presence in the economy as a whole. In Denmark, for example, the number

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of persons primarily employed on a TA basis rose by 60% from 1999 to 2004, however, this represented an increase of only 0.1% in terms of the proportion of total employment accounted for by TAW.

Table 1 TAW employment, companies and turnover in the EU15 and Norway

Country	Number of employees	Proportion of total workforce (%)	Number of companies	Number of branches	Turnover (€ million)
AT	44,125	1.4	380	1,424	-
BE	75,131	2.2	127	1,013	3,089
DE	399,789	1.2	4,526	7,153	-
DK	6,341	0.3	-	645	440
EL	3,503	-	-	-	-
ES	150,000	0.8	341	1,953	2,450
FI	14,000	0.6	-	400	-
FR	569,314	2.1	1,000	6,299	18,400
IE	25,000	-	366	-	1,300
IT	153,000	0.6	75	2,400	4,000
LU	7,135	1.6	40	-	150
NL	157,000	2.5	1,250	4,200	6,500
NO	22,784	1.0	-	632	654
PT	45,000	0.9	247	-	650
SE	35,000	1.0	550	-	929
UK	(a) 600,000 (b) 1,434,098	(a) 2.6 (b) 5.1	6,500	10,000	34,693

Note: Direct comparability of employee numbers and proportion of workforce is limited, as several figures may refer to absolute numbers, whereas NCs or employer organisations for 11 countries confirm that employment is expressed in terms of full-time equivalents. Also, figures provided do not normally distinguish whether workers are working solely, primarily or otherwise on a TA basis. See Appendix 1 for further details, including note on two figures offered for the UK.

In many countries, the steep growth observed in the second half of the 1990s slowed from the turn of the decade. In Germany, for example, 138,451 persons were employed in TAW in 1994, rising to 339,022 by 2000. The growth rate has declined since then to reach a figure of around 400,000 in 2004. In Belgium, the proportion of the labour force employed by the TAW segment has remained steady, from 2.09% in 2000 to 2.15% in 2004. In the UK, labour force survey data report a total growth of only 4% between 2000 and 2004, despite GDP growth of up to 4% per year in the same period. In France, the average growth of TAW in employment terms was just over 2% annually between 1999 and 2004, though the peak year was 2000 when there were increases of 9.6% in construction, 16.6% in the industrial sectors and 23.2% in services. In the Netherlands, employment in TAW grew by 3.8% in 2000, but the rate of growth has since slowed down to reach 2.5% in 2004. The expansion of the sector in Italy also saw its strongest growth at the turn of the decade – one of the employer organisations reported a doubling of members' business volume in 1999, an increase of 42% in 2001 and a relatively low 15% increase in 2002. The trend was reported as continuing into the current year and was explained by economic factors. This cyclical effect was particularly evident in Norway, where the number of TA workers peaked in 2001 and actually fell in absolute terms by around 15% in the subsequent two years, although the number of TWAs has continued to grow, following deregulation in 2001.

Employment characteristics

This section briefly reviews the labour market distribution of TAW, in terms of the main sectors and duration of assignments on the demand side, and the demographic characteristics of TA workers on the supply side. The contractual status of TA workers, about which there is much more limited data, is covered in Chapter 2.

Sectoral and occupational profile

In all, 12 countries were able to indicate the sector location of user companies (Table 2). These can be divided into three groups: those where TAW is most commonly a phenomenon in manufacturing (Austria, France, the Netherlands and Portugal); those where it is more likely to be found in the service sectors (Spain, Sweden and the UK – the latter according to official LFS statistics at least); and those where the sectoral profile is more or less mixed (Belgium, Denmark, Finland and Italy). In the case of Italy, recent rapid growth in commerce has seen the profile of TAW extend beyond its original base in metalworking. Significant public sector users of TAW are found in a minority cluster of northern European countries – Denmark, the Netherlands, Norway and the UK.

Table 2 Distribution of assignments by sector, EU15 and Norway

Country	Sector
AT	<ul style="list-style-type: none"> • 48% manufacturing; 32% craft, trade and services • 6% transport/telecoms; 5% commerce; 0.7% bank/insurance
BE	<ul style="list-style-type: none"> • 45% manufacturing; 43% services • 5% construction; 4% agriculture, etc; 3% gas, electricity, water
DK	<ul style="list-style-type: none"> • 35% manufacturing; 12% private services; 14% other private sector • 37% public sector; 2% private households and other
ES	<ul style="list-style-type: none"> • 59% services (17% hotel/catering, 6% wholesale/retail) • 33% manufacturing (8% food, drinks, tobacco); 6% agriculture, etc; 2% construction
FI	<ul style="list-style-type: none"> • TA workers make up 5% of the construction workforce and 2% of both manufacturing and services
FR	<ul style="list-style-type: none"> • TA workers make up 8% of the construction workforce, 7% of salaried industrial employment and 1.5% of the service sector • Nearly half (47.9%) of TAW is in manufacturing, 32.1% is in services and 19.3% is in construction
IT	<ul style="list-style-type: none"> • Almost half of TAW contracts are accounted for by metalworking; now matched in importance by services, particularly commerce
NL	<ul style="list-style-type: none"> • 31% manufacturing; 9% government and education; 18% trade, hotel and catering; 13% services; 12% transport; 10% health; 3% construction; 2% ICT; 1% agriculture; 1% others
NO	<ul style="list-style-type: none"> • TWA personnel used in 38% of private sector and 20% of public sector organisations • Higher proportions in manufacturing, wholesale, finance and transport
PT	<ul style="list-style-type: none"> • 40% manufacturing; 13% commerce; 12% services for companies • 9% hotel/catering; 9% transport/communication; 8% construction
SE	<ul style="list-style-type: none"> • 74% services; 22% manufacturing; 4% health care
UK	<ul style="list-style-type: none"> • LFS: 86% service sector (including 43% government, education, health; 17% distribution, hotels/catering; 13% banking, finance, insurance); 9% manufacturing • Employer organisation: 18% secretarial/clerical; 11% computing/IT; 2% accounting/financial; 14% technical/engineering; 3% hotels/ catering; 7% education; 9% nursing/medical care; 3% drivers; 23% other industrial/blue-collar; 10% other

Note: DK and FI data refer not to the relative distribution of TA placements, but report the relative penetration of TAW in particular sectors and industries. FR refers to both (the second data bullet provided by employer organisations). No data for DE, EL, IE, LU. See Appendix 1 for further notes and sources.

A further view is provided by Table 3, which refers to placements by occupation and skill characteristics. Although the possibilities for an overall assessment and comparisons are limited on the basis of this evidence, a significant proportion of TAW appears to be located in lower-skilled work in the service sector or manufacturing, and in clerical and administrative occupations. However, a number of countries also substantially use skilled technical and engineering professionals, e.g. France, Germany, Italy, the UK; and public service and other professionals, e.g. Denmark, the UK. Higher educational, if not necessarily skill, characteristics may also be associated with the participation of students in TAW in some countries, although there are little data available on student participation specifically.

Table 3 Distribution of assignments by occupation, EU15 and Norway

Country	Occupation and skill characteristics
AT	<ul style="list-style-type: none"> • 83% blue-collar; 17% white-collar • Generally low skilled: two in three workers in low-skilled jobs are TAW
BE	<ul style="list-style-type: none"> • 63% blue-collar; 37% white-collar • 15% low educational standard; 53% average; 28% higher education
DE	<ul style="list-style-type: none"> • 32% in low-skilled jobs of no further description • 18% metalworkers or mechanics; 7% electricians; 9.5% administration/clerical
DK	<ul style="list-style-type: none"> • 31% production, storage, chauffeurs • 31% health care (of which a quarter are nurses) • 28% administration • 5% catering • 2% sales and demonstration • 3% other
EL	<ul style="list-style-type: none"> • 36% office staff (20% male, 51% female); 8% sales staff (2% male, 12% female); 6% call centre staff (5% male, 7% female) • 13% warehouse supervisor or worker (21% male, 6% female) • 4% low-skilled workers (9% male, 0.1% female)
ES	<ul style="list-style-type: none"> • 64% low-skilled workers • 14% workers in catering, personal services, protection and sales staff • 10% administrative staff • 8% plant and machine operators and installers; 3% craft workers and skilled workers in manufacturing, construction and mining, except plant and machine operators • 69% basic or low education; 16% secondary education and similar; 6% diploma or degree • 9.5% had received vocational training
FR	<ul style="list-style-type: none"> • 44% low-skilled manual; 36% skilled manual • 13% clerical; 6% intermediary occupations; 1.6% managerial
IT	<ul style="list-style-type: none"> • 23% skilled workers; 21% generic workers • 9% administration; 7% sales or cash desk staff
NL	<ul style="list-style-type: none"> • 32% lower secondary or primary education; 48% middle secondary; 19% higher secondary or higher scientific
NO	<ul style="list-style-type: none"> • 40% university-level education • Traditionally dominated by office work (strict regulations prior to 2000); reportedly still less common for blue-collar work • Recent expansion into health sector and construction (prohibited before deregulation; see Chapter 3)
PT	<ul style="list-style-type: none"> • 45% in jobs requiring no qualifications (28% in construction, manufacturing, mining, transport; 17% in services and commerce) • 13% in administrative work • 4% to 6% as receptionists; sales staff; metalworkers; technical staff
UK	<ul style="list-style-type: none"> • 26% secretarial and clerical; 10% professional/managerial; 8.5% financial; 7% computing/IT; 7% hotel/catering workers • 11% technical and engineering; 2.5% blue-collar

Note: No data for FI, IE, LU, SE. See Appendix 1 for notes and sources.

Duration of assignments

The duration of TA placements is a crucial issue in terms of EU-level proposals for regulation of this form of employment relationship. Differences in the calculation and presentation of statistics

preclude any authoritative statements about patterns across the countries under consideration, but Table 4 summarises NC responses, supplemented by the social partners.

Table 4 Duration of assignments, EU15 and Norway

Country	Duration	
AT	<ul style="list-style-type: none"> • <1 month: blue-collar 26%, white-collar 10% • 3–6 months: blue-collar 19%, white-collar 14% • 12+ months: blue-collar 15%, white-collar 44% 	<ul style="list-style-type: none"> • 1–3 months: blue-collar 27%, white-collar 14% • 6–12 months: blue-collar 13%, white-collar 18%
BE	<ul style="list-style-type: none"> • <1 month: 34% • 2–4 months: 20% • 6–12 months: 16% 	<ul style="list-style-type: none"> • 1–2 months: 10% • 4–6 months: 11% • 1 year+: 9%
DE	<ul style="list-style-type: none"> • <1 week: 15% • 3 months+: 39% 	<ul style="list-style-type: none"> • 1 week to <3 months: 46%
ES	<ul style="list-style-type: none"> • 1–5 days: 30% • 16 days–1 month: 8% • 3 months–1 year: 1% 	<ul style="list-style-type: none"> • 6–15 days: 12% • 1–3 months: 6% • Undetermined: 42%
FI	<ul style="list-style-type: none"> • Services: 19 days average • Office work: 180 days average; Industry: 97 days average 	
FR	<ul style="list-style-type: none"> • Average: 1.9 weeks (9.5 days) 	
IE	<ul style="list-style-type: none"> • <1 month: 21% • 2–<3 months: 13% • 4–<5 months: 4% • ≥10 months: 9% 	<ul style="list-style-type: none"> • 1–<2 months: 17% • 3–<4 months: 26% • 5–<10 months: 9%
IT	<ul style="list-style-type: none"> • Employer organisation (1) – average: 56 days; • 56% ≥1 month 	<ul style="list-style-type: none"> • Employer organisation (2) – average: 216 hours; • 83% ≥3 months
LU	<ul style="list-style-type: none"> • Average: 27.6 days 	
NL	<ul style="list-style-type: none"> • Average length of assignment: 113 days 	<ul style="list-style-type: none"> • Total average duration of assignments per year: 149 days
NO	<ul style="list-style-type: none"> • Average: 145 hours 	
PT	<ul style="list-style-type: none"> • Employer organisation: Average 3–4 months 	<ul style="list-style-type: none"> • Labour Office: Average 4.4 months
UK	<ul style="list-style-type: none"> • <3 months: 36% • 6–12 months: 20% 	<ul style="list-style-type: none"> • 3–6 months: 21% • >1 year: 25%

Note: It is important to distinguish between length of assignment, for which there are much more data, and length of (employment) contracts. For example, the short duration of assignments in Germany should be contextualised against the common use of open-ended contracts for TAW in that country. See Appendix 1 for notes and sources. No data: DK, EL, SE.

In the circumstances, countries may be divided into two groups: those where TAW appears to be used primarily for relatively short assignments, and those with a significant proportion of lengthy TAW assignments. Countries with the shortest average TAW assignments appear to be France, with an average of 9.5 days; Spain, where nearly a third of assignments are for less than a week; the service sector in Finland, with a 19-day average; and Norway, where the average duration is 145 hours, or about four standard working weeks. The average for Luxembourg approximates to just over a month. In Italy, most assignments are shorter than one month and, in Germany, a significant proportion (15%) last only for a few days or so, with the majority under three months.

The second set of countries has a greater dispersion of assignment duration, with a significant proportion of long-term as well as short-term TAW. These include Ireland, where a fifth of assignments are for less than a month but a similar figure last more than five months, and Belgium, where a third of placements are for less than one month, but nearly a quarter last longer than six

months, and one in 10 for more than a year. Portugal, with an average contract lasting up to four months, may well have a similar pattern, although without additional information it is not possible to say. Similarly, TAW in the Netherlands, where the average is 113 days (around five months), is also likely to have a significant proportion of longer-duration TAW contracts. Certainly, this is the case in the UK. Although more than a third of assignments are under three months, one in five lasts between six months and a year, and a quarter last for a year or more. However, the longest assignments appear to be found in Austria, where almost half of all white-collar assignments are for a year or more. Blue-collar work is more evenly spread, although more than a quarter of assignments last longer than six months and 15% are for more than a year.

Demographic profile

Table 5 provides details of the sex and age profiles of TA workers. Most countries have a more or less balanced gender distribution of TA workers, but in some countries (AT, DE, FR, LU) the proportion of men is significantly higher. In two-thirds of countries providing data on the sex distribution of TA workers, the majority of such workers are men and, in the remaining third, the balance is somewhat evenly split. This partly reflects occupational patterns: for example, Austria and France – where TAW is found more in manufacturing and construction than in services – have large male majorities in the TA workforce. However, even where the service sector dominates, men are still likely to form a large part of the workforce. This might be a function of the relatively young average age of TA workers, whereby young people can utilise TAW to sample or enter the labour market or to supplement income while in education. In Belgium, the Netherlands and Spain, almost half of TA workers are aged below 25 years, and elsewhere this figure is around a third. Other countries, such as France, Germany, Portugal and the UK, have a higher presence of older workers.

Table 5 Temporary agency workforce by sex and age, EU15 and Norway

Country	Female (%)	Male (%)	Age characteristics (%)			
			<25 years	<30 years	<35 years	>45 years
AT	17	83	-	-	-	-
BE	42	58	45	64	-	-
DE	24	76	[av. 37.5 years]			
EL	53	47	-	86	-	(4)
ES	44	56	45	70	83	5
FR	28	72	34	54	68	12
IT	53	47	-	-	-	-
LU	22	78	-	-	-	-
NL	44	56	50	-	-	9
NO	50	50	-	-	70	-
PT	40	60	29	-	-	(24)
SE	60	40	27	45	59	-
UK	48	52	36	62	-	21

Note: No data for DK, FI, IE. Note: Age categories are not discrete and may differ for individual countries (as indicated by parentheses); see Appendix 1 for further details, notes and sources.

New Member States, Bulgaria and Romania

Relevant data are limited for most of the NMS and the two acceding countries, since TAW is in its infancy there and, in many cases, only recently made legal. This is most evident in the Czech Republic, where TAW was put on a legal footing as recently as October 2004. The first data collection there is planned for 2006, to be available in 2007. There are also no official statistics yet available in Estonia, where most TWAs appeared in early 2004 and the first emerged in 2002. Currently, there are 12 active TWAs, though more than 180 are licensed to perform employment mediation services, and the Estonian Employers' Confederation plans to collect systematic data from 2005. Similarly, Bulgaria and Latvia (where there is only one main company at national level) could provide no data; and Cyprus referred only to temporary workers as a whole. The lack of official statistics in Malta was said to reflect its very low profile in the labour market: only five firms offered TAW services, mainly for clerical and accountancy roles, and then as part of the broader activities of an employment agency.

In Romania, TAW assignments theoretically became possible in September 2004, although the licensing procedure was only finalised in April 2005. There is, therefore, no official data as of yet. The Ministry of Labour reportedly anticipates rapid growth, not least based on the legitimisation of workers in the illegal economy. A study by Adecco, a major multinational TAW company, estimates that over the next two years, 20,000 people could sign at least one TAW contract, representing 0.2% to 0.3% of the total employed population.

More details were forthcoming elsewhere. In Slovenia, where the sector came under regulation from 1 January 2003, there were 3,695 TA workers in 2004, representing almost 0.5% of employed persons; 69 agencies with general licences for employment services; and 76 agencies with student work licences (May 2005). Three employers account for almost all TAW: Adecco, with 1,600 workers, Manpower, with 1,000 workers, and ISS, with 700 workers. Adecco places most (1,100) of its TA workers in manufacturing rather than services, and other analyses suggest that most demand – which is increasing annually by 20% to 30% – comes from the auto, electro, chemical and rubber industries. Similar rapid growth was reported in Poland, where the employer organisation found a 9% rise in the number of assigned workers in the most recent year, helping to generate a 40% increase in member turnover. The first TWA in the country apparently assigned only 21 people to placements in 1994; currently, according to a report from the Ministry of Economic Affairs and Labour (June 2005), there are several dozen agencies retaining some 167,644 employees, or 0.4% of the economically active Polish population.⁶

Respondents in two other national centres were able to provide a more detailed picture. The most complete data are provided by Hungary, since the collection of statistics on TWAs was mandated by government decree when the segment was first subject to direct statutory regulation in 2001. Likewise, the legalisation of TAW in Slovakia in 2004 provided for the collection of statistical data via company annual reports. The situation in these two countries is summarised in Box 1 (data refer to 2004 unless otherwise stated).

⁶ The employer organisation, ZAPT, reports 108,000 TA workers, which it states as representing 0.7% of the Polish labour force.

Box 1: Temporary agency work in Hungary and Slovakia

■ *Businesses*

HU: 282 registered TWAs in late 2002; 339 in 2003; and 505 in 2004.

SK: 74 licensed TWAs in 2004, although only 31 were active (20 of which were in Bratislava, accounting for 87% of all workers assigned).

■ *Employees*

HU: Contracts concluded with 52,684 employees in 2004 (a growth of 30% and 35% over the previous two years). These workers represent 1.35% of the employed population. Just over half (52.2%) of agency workers are men, and the same proportion are aged between 21 and 35 years (21% are aged 36 to 45 years and 14% are aged 46 to 55 years).

SK: 10,828 TA workers assigned, approximately 0.5% of all employees in the economy.

■ *Sector/occupation of placements*

HU: Biggest users of TAW were manufacturing (58%). Other significant sectors include sport, cultural and other services (14%); transport, post and telecommunication (8%); commerce (7%); and construction (5%). The vast majority of agency workers (89%) are in manual jobs, of whom only 22% were skilled (58% semi-skilled and 10% low-skilled). Most had low educational qualifications. The main users of white-collar TA workers are financial and health care organisations.

SK: TA workers are most likely to be placed in industry. TA workers represent around 1.5% of all employees in manufacturing. The most significant sectors are the electrical industry (3,599 workers placed), machinery engineering (2,156), automotive (2,136), logistics (1,427) and agriculture (540).

■ *Duration of placements*

HU: The 52,684 TA workers did 65,029 assignments in 2004. Some 40% of agency workers had fixed-term contracts, with an average duration of 60 days. Three-quarters of the FTC workers had only one assignment during the year. The remaining 60% of TAW workers were employed on open-ended contracts, with assignments lasting an average of 108 days.

SK: No detailed data on duration of assignment, but it is understood that 79.6% of TA workers were employed for a period of less than six months.

Statutory regulation of temporary agency work

2

Virtually all Member States have a specific regulatory framework for TAW based on national legislation. This section reviews these often very different national frameworks: their longevity and evolution, overall objectives, and what restrictions and requirements they place on TAW in the countries concerned. As Chapter 1 showed, patterns of TAW usage and growth are generally distinctive between the two groups of the EU15 plus Norway, and the NMS plus Bulgaria and Romania. This dichotomy is, therefore, also used to structure the analysis of regulatory approaches to TAW, whether, as in this chapter, by statute (and judicial) law, or, as in Chapter 3, by collective bargaining and other forms of self-regulation. This chapter, starting with the EU15 plus Norway, begins by looking at when legislation was introduced before moving on to consider patterns in terms of content.

EU15 and Norway

Developments in national legislation

These countries may be divided into two broad groups in terms of when they first addressed TAW by statute law (beyond any simple prohibition). The first group, consisting of Belgium, Denmark, France, Germany, Ireland, the Netherlands, Norway and the UK, have long-established legislative frameworks, with the Netherlands introducing the first licensing scheme in 1965. The second group – Austria, Luxembourg, Portugal, Spain and Sweden – introduced specific legislation from the late 1980s until the turn of the century.

As the TAW segment has grown, in many cases the law has been amended or more significantly revised with a view to extending employment protection and/or liberalising the circumstances in which TAW may be used. These developments are summarised in Table 6 and in the explanatory text below, followed by a more detailed discussion of the key content.

The 'first wave' countries, 1965–1977

The first countries to recognise TAW, at least in regulatory terms, were the Netherlands, Denmark and Ireland, soon followed by the large economies of Germany, France and the UK, then Belgium and Norway.

In the Netherlands, the growth of illegal labour brokers in the 1960s encouraged the government to introduce a permit system via the Act on the Provision of Temporary Labour in 1965 (Dunnewijk, 2001). The continued growth of this form of employment relationship, and in particular the growth of collective bargaining (see Chapter 3), contributed to a regulatory overhaul in the late 1990s.

The first major change was the Labour Market Intermediaries Act (WAADI), which came into force on 1 July 1998. The WAADI abolished the licensing system and a number of restrictions relating to placement, maximum duration, worker redeployment, and limitations on the ability of TWAs to obstruct TA employees from entering into direct employment contracts with user firms and others. Other rules remained, such as a prohibition on posting TA employees in user firms in which there was a strike, the dual responsibility of user firms and TWAs for the payments of social premiums and taxes, and an equal wages clause for TA workers.

The second significant change was the Flexibility and Security Act, which came into force on 1 January 1999. This followed an agreement between the social partners in the bipartite consultation body STAR (Stichting van de Arbeid). The Act approaches the legal position of temporary employees as a standard labour contract between a temporary employee and the TWA, and also introduced participation rights for TA workers in the user enterprise.

Table 6 Date of principal TAW legislation, EU15 and Norway

Country	First law	Amendments	Revisions
NL	1965		1998, 1999: Liberalisation
DK	1968		1990: All regulation removed (shift to collective agreements)
IE	1971		
DE	1972	Successive increases to TA duration	2002: Major revision
FR	1972	Successive changes to permissible reasons and contract duration 2005: Wider role for TWAs	
UK	1973	1976: Enforcement inspectorate 1994: Licensing requirement removed 2003: Simplification and worker rights	
BE	1976	1987: Law adopted based on 1976 temporary law 2000: TWA role in placing long-term unemployed people	
NO	1977		2000: TAW allowed alongside other temporary employment 2005: Wider scope for temporary/TA employment
AT	1988	2002: Health and safety 2005: Permitted in nursing	
PT	1989	1996: Unspecified minor amendments	1999: Increased duration; training; health/safety protection
SE	1993		
ES	1994		1999: Limitations and pay parity
LU	1994		
IT	1997	2003: Wider scope for usage	
FI	2001		
EL	2001	2003: Social dialogue input	

Source: NC reports supplemented by input from social partners and author's research

In Denmark, growing competition between TWAs and the state employment exchange led to law no. 249/1968 concerning the supervision of private employment agencies, which was subsequently made part of the Act on Employment Exchange and Unemployment Insurance (law no. 114/1970). Regulations made under the Act limited TAW to the commercial and office sectors (Eklund, 2002). However, in 1990, the statutory regulatory system was removed in favour of regulation by collective bargaining.

In Ireland, the Employment Agency Act 1971 introduced a licensing system to ensure that TWAs were reputable companies. The biggest change to the regulatory framework occurred in 1993, when the Unfair Dismissals (Amendment) Act extended unfair dismissal protection to agency workers. The law declared TA workers, for the purposes of the Act, to be employees of the user enterprise

rather than the TWA itself. This was subsequently reinforced by a landmark ruling of the Labour Court in 2004, which found an agency nurse to be in the controlling employment of the client firm, Diageo⁷. It also introduced a review procedure to assess whether repeat contract renewals were intended to avoid liability under the Act, with the effect of somewhat curbing this practice.

In Germany, the 1972 Temporary Employment Act (*Arbeitnehmerüberlassungsgesetz, AÜG*) required that TAW must be based on a written contract between the agency and user enterprise and that TA workers must receive a document setting out the key terms and conditions of their employment. The Act also restricted the duration of an assignment to three months, although this was later progressively extended to reach 24 months by 2001. This restriction, along with others, was lifted in a major revision to the Act in 2002. The revised law also stipulated that TWAs were obliged (from 2004) to guarantee their workers the same pay and employment conditions as permanent staff in the user enterprise, though deviation from this principle was permitted on the basis of collective agreements. The new framework also introduced a role for personal service agencies, whereby TWAs assumed a leading role in the placement of unemployed people in short-term assignments as a 'stepping stone' towards reintegration in the labour market.

The first legislation in France was introduced in 1972, and has since been subject to numerous revisions, particularly concerning permissible reasons for client usage of TAW and the limits placed on assignment duration. Another major change was introduced by the Social Cohesion Framework Act of 18 January 2005, which extended TWA business by enabling the agencies to offer jobs with fixed-term or open-ended contracts and to act as providers of placement services for unemployed workers.

In the UK, the Employment Agencies Act 1973 introduced a licensing system, with a complaints and enforcement mechanism added by the Conduct of Employment Agencies and Employment Businesses Regulations 1976. Further regulations (of the same title) were introduced in 2003 to respond to the growth of TAW by simplifying requirements in order to increase flexibility and reduce costs for employers. It also improved the rights of TA workers by extending restrictions on fees, making TWAs responsible in terms of health and safety in the user enterprise, and requiring agencies to inform workers of details of their terms and conditions of employment.

The overall legal basis for the regulation of TAW in Belgium is currently provided by the law of 24 July 1987 'on temporary work, temporary agency work, and the hiring-out of workers to clients', although in practice the social partners have a prominent role both through collective agreements and by participating in bodies such as the Joint Commission for temporary work (CP 322) and the National Labour Council. Regional government also has some responsibility for working conditions relating to placements. Prior to the 1987 law, private employment placement was prohibited in Belgium following the ratification in 1958 of ILO Convention No. 96 (1949) on fee-charging employment agencies⁸, although a royal decree of 28 November 1976 permitted a derogation for

⁷ Determination No. PTD042, [www.labourcourt.ie/Labour/Information.nsf/0/d10f2aa65b658db480256f690041cf45/\\$FILE/Synopsis%20of%20Part-Time%20Work%20Determinations%202004.pdf](http://www.labourcourt.ie/Labour/Information.nsf/0/d10f2aa65b658db480256f690041cf45/$FILE/Synopsis%20of%20Part-Time%20Work%20Determinations%202004.pdf)

⁸ This convention provides for the prohibition of fee-charging employment agencies conducted with a view to profit, or provides for the regulation of their activities. It was replaced by Convention No. 181 of 1997 which recognises the goal of promoting flexibility in labour markets, permitting private employment agencies while setting down certain standards relating to worker protection.

artists. That year also marked the first general regulation of this form of employment relationship when a temporary law was adopted on 28 June 1976, to last for a period of four years (with a possible extension of one year), concerning 'temporary work and the posting of workers'. The law was based on four principles:

- protection of the temporary worker: he or she is considered to be a regular worker and, therefore, should benefit from all legal protection under the labour laws (with some minor exemptions);
- protection of the permanent worker: for example, temporary worker assignments were limited in order not to threaten permanent employment;
- protection of the user company, through the licencing system for TWAs;
- provisions for the Belgian State to prevent and to thwart any abuses regarding the use of temporary work.

The law adopted in July 1987 was mainly inspired by the 1976 temporary law. The main legislative change at national level since 1987 was the law of 12 August 2000, offering TWAs a role in the placement of people such as those who are long-term unemployed, providing that they recruit such workers on open-ended contracts.

In Norway, the regulation of TAW was addressed under the Worker Protection and Working Environment Act (AML) 1977. This generally barred TWAs, apart from a number of agencies that were allowed a permanent exemption in order to provide labour for office work. The present legislation was introduced in 2000, abolishing the general prohibition but permitting TAW only in situations where the law permits fixed-term contracts, for instance in connection with absences, extra workload, etc (although trade unions and employers may agree on other, less strict provisions for limited periods). A further revision of the AML in 2005 makes it easier for companies to use temporary contracts in general, thereby widening the opportunities for TAW employment.

The 'second wave' countries, 1987–2001

In Austria, the 1988 Temporary Employment Act (Arbeitskräfteüberlassungsgesetz, AÜG) was the first specific regulation of the segment, focusing on the employment contract and industrial and social protection. It was slightly amended in 2002 by the Economic Stimulation Act (Konjunkturbelebungs-gesetz, KBG), which established that TWAs as well as user companies were responsible for the personal safety of the employees. In 2005, the Nursing Act (Krankenpflegegesetz) was amended to permit TAW in hospitals and nursing homes, subject to a maximum proportion of 15% of staff.

The framework for the regulation of TAW in Portugal is provided by decree-law no. 358/89 of 17 October 1989 (DL 89). This includes stipulations concerning the circumstances in which TAW is allowed in areas such as working conditions, payment and other workers' rights, limits to duration, and the social responsibilities of the TWA. It remained largely intact after minor amendments of the law in 1996 (law no. 39/96), although more significant changes were introduced in 1999 (law no. 146/99). These included a new licensing system, increased opportunities for placements of longer duration, improved protection for worker health and safety, and a requirement for TWAs to

allocate at least 1% of business volume arising from temporary work to occupational training for TA workers.

In Sweden, state legislation was first introduced by the 1993 Private Job Placement and Hiring-Out of Labour Act (Lag om privat arbetsförmedling och uthyrning av arbetskraft). It has changed little since then, and it seems that the statutory framework is fairly limited in scope. This is because TAW did not really take off until the mid-1990s and has largely been dealt with by the actors themselves through collective agreements and voluntary self-regulation.

Collective agreements are also important in Spain, where the legal framework was first established by law 14/1994 and strengthened by law 29/1999. This placed some limits on the assignment of TA workers and introduced the principle of pay parity according to the sectoral agreement of the client organisation.

In Luxembourg, information and contract rules concerning the employment of TA workers were introduced by the law of 19 May 1994; further specific conditions are established by means of collective agreement.

Temporary agency work was first authorised in Italy by law 196/1997, which established the framework for when, where and for what reasons TAW may be used, introduced a certification scheme, and declared that TA workers have the same pay and social rights as permanent workers in the user company. A change to the law in 2003 extended the grounds for the use of leased labour to include needs relating to the user company's routine activities, and permitted TWAs to engage in broader job placement services.

In Finland, the omission of any reference to TAW in the 1970 Employment Contracts Act (ECA) contributed to the introduction of a new ECA in 2001. The Act does not place restrictions on the use of TAW, but inserts safeguards such as that workers must agree to a placement and that, if the agency is not bound by a collective agreement, the collective agreement applicable to the user enterprise must be observed.

The first legislation in Greece was also passed in 2001. Law 2956 of 2001 on the restructuring of the Labour Force Employment Organisation (OAED) refers to the conditions for the creation and the terms of operation of TWAs, and to the employment rights of TA workers in terms of the restrictions and requirements to be placed on TA employment. Two years later, law 3144/2003 on the social dialogue for the promotion of employment and social protection led to the establishment of a Special Committee to advise the Minister of Labour on the granting of operating licences to TWAs.

Key issues in regulation

The next sections briefly consider the legal status of TA workers, and the licensing and monitoring arrangements required of TWAs, before moving on to the principal restrictions and requirements placed on TWAs under the different systems of national legislation. Employment conditions such as information rights, social insurance and employment benefits are less explicitly focused on, since the situation appears generally straightforward – TA workers are normally assured of equal

treatment with permanent staff.⁹ Instead, the issues of equal treatment and any restrictions on reasons for, duration of, or permitted sectors/occupations concerning TA usage are considered.

Legal status of TA workers

Two vital questions in terms of regulation of TAW are, firstly, who is the legal employer of the TA worker, and secondly, where this is the TWA rather than the user company, on what basis is he or she employed, on an open-ended contract or FTC? National centres were able to supply information in response to the first question; evidence was more difficult to obtain in relation to the second.

In all but two countries, the TA worker may be defined essentially as ‘an employee of a TWA but working under the managerial authority of the user company’. In the UK and Ireland, the situation is more ambiguous. In the UK, there is no single statutory definition of TAW or of an agency worker. The 1973 Act distinguishes (perhaps confusingly in today’s terminology) between an ‘employment agency’, which it basically defines as an organisation that finds persons (permanent) employment or looks for such workers on behalf of employers, and an ‘employment business’, i.e. TWA, which supplies persons in its own employment to work under the control of others. The word ‘employment’ is widely construed and includes engagement under a ‘contract for services’ as well as under a ‘contract of employment’. In most instances, TWAs in the UK engage their temporary workers on the former basis, since this does not immediately give rise to an employment relationship in law. In practice, a court might use a multiple factor test to determine whether the working relationship constitutes a ‘contract of employment’ and, if so, whether it is with the agency or user enterprise. In terms of access to wider statutory rights, most temporary workers have the legal status of workers rather than employees. In the case of Ireland, the situation appears unique in that an agency worker is deemed to be an employee of the user company according to section 13 of Ireland’s Unfair Dismissals (Amendment) Act 1993. This was designed to extend unfair dismissals protection to agency workers, and the Labour Court has used this definition in further rulings on TAW.

Neither the UK nor Ireland respondents submitted information concerning the form that TAW employment contracts generally take. Elsewhere, it seems that open-ended employment, although it may well be permitted, is relatively rare, with TA workers normally hired for the specified duration of a placement. Only in Sweden is a TA worker regarded as an employee with a permanent or open-ended contract, although the German employer organisation reports that it is normal practice to employ TA workers on an unlimited contract. In Belgium, the introduction of the ‘*interim d’insertion*’ employment scheme in 2000 provided for the employment, on open-ended contracts by TWAs, of long-term unemployed people and individuals in receipt of Social Integration Support. The collective agreement in the Netherlands stipulates that, after three and a half years, a TA

⁹ An exception is Sweden, where the employer organisation reports that part-time TA workers are, exclusively, not entitled to compensation from the unemployment benefit fund. In addition, in Luxembourg, TA workers may not vote for nor stand as union/employee committee members of the client company even though they may do so in the TWA. Note also that some NCs, e.g. Germany, the UK, cite research referring to practical difficulties for some agency workers concerning access to employment benefits, training, and workplace information and consultation. The UK employer organisation cites alternative research to this effect, and CIETT points to the Commission’s 2006 European Year of Workers’ Mobility, which notes that job mobility can ‘help to develop new skills and knowledge, enhance job satisfaction and increase employability’ (http://europa.eu.int/comm/employment_social/workersmobility2006/about_en.htm). However, debate over the relative merits of TWA is not a focus of the research.

worker has the right to a permanent contract (see below). In Spain, a distinction is made in the sectoral agreement between assigned workers and 'structural workers' – the latter referring to management, administration and support staff in the TWA. A proportion of these must be engaged on a permanent basis, although assigned workers may be recruited on either temporary or permanent contracts. Otherwise, Denmark, Greece and Finland are examples of countries where TAW is basically provided in the form of FTC work rather than the placement of permanent agency staff.

Licensing and monitoring

Most countries operate a licensing, registration or similar approval system for TAW. These normally: stipulate minimum standards in terms of business premises, infrastructure and, frequently, the good character of directors; set financial requirements including a bond to cover taxes and wages in the event of business failure; and often require that TAW is the sole or primary business activity of the firm. In a few countries (such as France and Luxembourg), TWAs must also submit regular details of their activities to the authorities.

Countries without licensing schemes include Norway, Sweden (in lieu of a social partner scheme established in 2004) and three countries that revoked their existing licensing schemes in the 1990s: Finland, the Netherlands and the UK. Finland introduced a permit scheme in 1985 because the public employment exchange system found it difficult to satisfy demand for short-term employment, and because many entrepreneurs supplying temporary labour were avoiding paying taxes and social levies (Eklund, 2002). This was abolished from 1994 on the grounds of bureaucracy and limited evidence of positive results. A new TWA now has to notify the occupational safety and health authorities, but otherwise the procedure is the same as for starting any other company. Licensing was introduced for TWAs in the UK as long ago as 1973, but withdrawn in 1994 on the basis that the existing supervision of TAW was sufficient (the Department of Trade and Industry operates an inspection and complaints investigation system through its Employment Agency Standards Inspectorate), so licensing was an unnecessary bureaucratic barrier to entry. The Netherlands abolished its licensing and authorisation procedure with the introduction of the WAADI Act in 1998, even though a financial warranty scheme was retained.

Elsewhere, there is considerable variation in the stringency of the licensing schemes used. The Austrian scheme was introduced with the AÜG in 1988, but no other details are provided. In Greece, a TWA may only be established in the form of a *société anonyme* (corporation) with share capital of at least €176,000 in order to be licensed by the employment ministry. Two separate bank guarantees must be lodged to cover pay and social security obligations, which are forfeited in the event of any late payment. Companies are inspected before a licence is granted, and they must satisfy the authorities regarding the business premises and technical infrastructure in place, and employ at least five operating staff. TWAs in Spain require a licence from the Provincial Directorate of Work and Social Security and must demonstrate an exclusive dedication to TAW, have neither tax nor social security debts, and undertake to provide necessary training for TA workers. Furthermore, they must lodge a financial guarantee equal to 25 times the annualised national minimum wage (or 10% of the annual wage bill on renewal). The labour authorities may inspect the company and consult workers' representatives on the occasion of licence renewal. In Italy, TWAs must enrol on a register maintained by the labour ministry and demonstrate that they have suitable premises, cover at least four regions, and have paid-up capital of at least €600,000. In Portugal, TWAs must be authorised by the Employment and Technical Training Institute (Instituto

de Emprego e Formação Profissional, IEFP) and lodge a guarantee equivalent to 200 times the national minimum wage, i.e. some €74,000.

In Belgium, TWAs need authorisation from one of three regional Approvals Commissions, on which the social partners have representation. They have to demonstrate that they comply with social legislation and owe no money to the National Office for Social Security. Flemish approvals are indefinite, whereas those in the Walloon region may be issued either for two years or for an indefinite time. The Brussels region issues approvals for four years if the company is established in Brussels, otherwise for a period of one year. German TWAs must obtain a permit from the Federal Employment Service (Bundestagentur für Arbeit, BA).¹⁰ This lasts for one year before it must be renewed, although TWAs receive an unlimited permit after three years. Fees may not exceed €2,500. Without a permit, any contracts are invalid and, if a worker is placed with a user company, he or she is deemed to have an employment relationship with that company from commencement of work. In France, a TWA must be registered with the Labour Inspectorate and provide a financial guarantee of compensation and social security contributions. They must also submit monthly reports of contracts made and terminated to the unemployment insurance fund UNEDIC (union nationale pour l'emploi dans l'industrie et le commerce). In Luxembourg, a TWA is obliged to obtain two licences: one from the Ministry of Labour and Employment, which is advised by the Employment Service and by the Labour and Mines Inspectorate; and another from the authorisation of the commerce section of the Ministère des Classes Moyennes. Both should be renewed annually. The TWA is also obliged to provide detailed data on contracts and assignments on a monthly basis, and lodge a financial guarantee to cover potential salary and tax liabilities. This sum is fixed in relation to the turnover of the company.

Ireland has operated a licensing system since 1971 that requires applicants and holders to 'be of good character and repute' and to operate from suitable premises. Proposals currently under consideration include moving to a new system of registration that includes a statutory code of practice, drawn up with social partner involvement by a monitoring committee. In Denmark, only two occupations require licensing: TWAs employing nurses need a licence from the health authorities, and drivers also have to be certified to work on a TA basis. Finally, it is worth noting that a major issue in countries such as Finland, the Netherlands and Portugal is the role of some TWAs in supplying illegal, often immigrant, labour, which has led to calls for tighter licensing and enforcement mechanisms. In the Netherlands, for example, the government recently proposed to reintroduce a licensing scheme on such grounds, although this was rejected by the Lower House in May 2005 following objections from employers.

Further restrictions and requirements

There are three sets of principal restrictions on TAW within national legislation. The first refers to various limits on the sector or occupation that might utilise TAW (other than a more general restriction on use for dangerous work). The second stipulates maximum contract duration and/or limits the use of successive contracting. The third defines the reasons and circumstances in which TAW may be employed, for example by limiting it to situations of peak and unexpected workload,

¹⁰ The Provision of Manpower Act requires any companies to be licensed that may hire out staff, including those that hire out their own (redundant) staff to subsidiaries or externally. Hence, there are over 15,000 licences but only 4,500 TWAs.

and in particular prohibiting placements in an establishment where there is a strike.¹¹ Other prohibitions commonly include situations where redundancies have recently been declared.

In addition, there are certain common requirements for TAW, which basically refer to employment protection measures for individual employees. These include stipulations: concerning the obligations of both agencies and user companies regarding occupational safety and health; ensuring that agencies do not charge individuals for their services; requiring that placements must be made with the voluntary agreement of the TA employee; and setting out the circumstances under which TA workers may (or may not) secure subsequent permanent employment at the user enterprise. Provisions regarding what should be detailed in the contract of employment for TA workers are also normally laid down. However, perhaps the most significant of these protective requirements is a condition that TA workers enjoy the same pay, benefits and other conditions of employment as permanent employees of the user enterprise engaged in similar work. This measure is often linked to any collective agreement pertaining to the user firm.

The pattern of these restrictions and requirements varies between countries. Table 7 on page 22 presents a summary of the four areas of greatest potential impact. This represents an approximate continuum running from the most regulated countries (in statutory terms¹²) to the least. Nearly 75% of the countries stipulate that there should be equality of employment terms and conditions between TA workers and comparable permanent staff; seven countries define the reasons for which recourse may be made to TAW; five limit the duration of TA contracting; and four set limits to sector and occupation of usage.¹³ Below, these restrictions and requirements are briefly discussed on a country-by-country basis, under the four main themes.

Equal treatment

In Belgium, TA workers enjoy the same pay and other TA terms and conditions of employment as permanent workers in the user enterprise under the Equivalence Rule of the basic law of July 1987. In Spain, the law was modified in 1999 to ensure pay parity with that of the collective agreement of the sector to which TA workers are assigned. The law also requires TWAs to invest 1% of their paybill in vocational training (in addition to the 0.25% stipulated in the collective agreement) on equal opportunity grounds. In Portugal, the legal framework also establishes parity of pay and conditions with permanent workers. The response from the Finnish NC reports that the employment conditions of TA workers are the same as those of other workers in fixed-term employment, and that the same rules and procedures apply to TA workers as for other workers in relation to social security and social benefits. In Luxembourg, the law of 19 May 1994 on temporary agency work and hiring out of labour states that the salary of a TAW employee may not be lower than the salary that the employee would have earned had he or she been permanently employed by the client under the same conditions.

¹¹ CIETT reports that they are not aware of any such restriction in Norway. In Ireland, it will be prohibited under new regulations coming into force from January 2006. In the Finnish response, there is reference not to legal restrictions, but to an employer organisation code of conduct stating that: 'Due to international practice, the agencies must not hire personnel to a company where legal industrial action is taking place, unless the parties of the conflict agree to hiring personnel'. Note that, in Germany, the situation is that a temporary worker is not required to work for a user enterprise which is directly affected by an industrial dispute. In the event of such, the TWA must inform the TA worker of the right to refuse to perform the work.

¹² Note that statutory regulation of TWAs was dismantled in Denmark in 1990 in favour of promoting regulation by collective agreement. Collective bargaining is also the main form of regulation in Sweden, where the employer organisation comments that 'the only [statutory] regulation that applies to the staff agencies is that it is forbidden to replace a regular worker that is on a strike'.

¹³ In Austria, there are also legal regulations concerning the numbers or proportion of TA workers that may be employed, although this is more likely a matter for regulation by collective bargaining.

Table 7 Main areas of statutory regulation, EU15 and Norway

Country	Equal treatment	Reasons for use	Limits on duration	Sector/occupation restrictions
BE	✓	✓	✓	✓
PT	✓	✓	✓	✓
FR	✓	✓	✓	X
ES	✓	✓	X	✓
LU	✓	✓	✓	X
EL	✓	X	✓	X
DE	✓	X	X	(✓)
IT	✓	✓	X	X
AT, FI, NL*	✓	X	X	X
NO	X	✓	X	X
UK, DK, SE, IE**	X	X	X	X

Notes: *NL: Agency work prohibited in shipping, but under treaty obligation. ** IE: There is some provision for equal treatment under unfair dismissal and case law.

Source: NC reports, supplemented by input from social partners and author's research

As already outlined, the introduction of the WAADI in 1998 swept away much of the system of statutory regulation in the Netherlands, but the equal wages clause was retained (even though deviation may be permitted by a collective agreement within the TWA). In France, the pay of TAW is linked to what a post-probationary permanent employee with the same qualifications would earn in that post. TA workers are also eligible for an end-of-assignment payment, equivalent to 10% of total gross pay earned during that assignment, and compensation equivalent to a further 10% in lieu of paid holidays, to which they are not entitled. In addition, there is a compulsory levy for training at 2% of payroll costs, which is higher than the 1.6% observed elsewhere.

In Greece, the TA employee's pay must not be lower than that set by the relevant collective agreements applying to the user company's staff; in no event may it be lower than the pay provided for by the National General Collective Labour Agreement. In Italy, national collective agreements apply equally to leased workers as to others in the user firm, so they should receive the same pay and holiday entitlements, enjoy equal social rights and be subject to similar working time patterns. In Ireland, TA workers are seen as employees of the user company under unfair dismissal and, more generally, by case law, so there needs to be equivalent treatment of TA workers under the laws relating to discrimination in employment. In Austria, the collective agreement covering the user company applies to TA workers during the periods of assignment. However, between assignments, blue-collar workers are covered by the collective agreement for TA workers and white-collar workers are covered by the collective agreement for salary earners in crafts and trades enterprises. The latter also applies if the collective agreement of the user company offers less favourable terms. In Germany, since 2004, TWAs are obliged to guarantee their workers the same pay and employment conditions as permanent staff in the user enterprise, unless a collective agreement is made to the contrary. Some exceptions are also possible for unemployed workers.

There is no provision for equal pay in the UK – beyond the indirect effect of legislation such as the statutory minimum wage. TA workers benefit from certain rights that are attached to the statutory definition of a 'worker', including, among others, rights to paid annual leave, to receive at least the national minimum wage and statutory sickness and maternity pay. However, as they are not

normally 'employees' in the narrow legal sense, they may be excluded from such rights as those concerning statutory notice, unfair dismissal, redundancy, or return to work after maternity leave. There is also no statutory obligation to provide training.

Reasons for use

Permissible reasons for TAW are strictly defined in some countries. In Luxembourg, it is permitted only for work limited to specific, non-permanent jobs that are not part of the enterprise's normal or everyday activity. In Belgium, federal legislation states that user enterprises may avail themselves of TAW (apart from artists) only for three reasons: to replace a permanent worker; for temporary and exceptional peaks of work; or for unusual work. Similar conditions apply in France, where TAW is confined to replacing a temporarily absent employee; to fill a post that has become vacant pending its ultimate abolition, or while awaiting the arrival of an employee on a permanent contract; to deal with a temporary increase in workload or fulfil a one-off order for export; to perform a sporadic and precisely set-out short-term task; or to perform urgent work necessitated by safety measures. In addition, the Social Cohesion Framework Act of 18 January 2005 added two new reasons, to be implemented by collective agreement, relating to the temporary worker's personal situation rather than the needs of the client firm. These were to facilitate the recruitment of disadvantaged unemployed people (such as older workers, disabled people, young people and those who are low skilled) or to provide additional vocational training.

In Portugal, TWAs may only supply staff to substitute absent workers; to meet temporary needs during a recruitment process; to meet a temporary or exceptional increase in activity; for seasonal work; or because of a need arising from a specifically defined task, either involving fluctuations in activity of less than half the normal weekly work period, or a limited temporary project of up to six months, which may be extended with authorisation from the General Labour Inspectorate (Inspecção Geral Trabalho, IGT). In Spain, when the Law for Temporary Work Agencies 14/1994 was modified in 1999 (29/1999) to impose 'convergencia' (the requirement that temporary workers must be paid rates equivalent to those of permanent staff), valid reasons for companies to use TAW were also set out. These are to carry out a specific work or service; with reference to market circumstances or accumulation of tasks or excess orders; to replace workers with job reservation rights; or to cover a vacancy temporarily.

The use of leased labour is permitted in Italy to meet production needs, or to substitute for absent personnel. The national collective agreement applicable to the company might also place limits on the use and proportion of TA workers that may be utilised. In Norway, agency workers may only be employed in situations where the law permits FTCs, for instance in connection with absence or extra workload, although the social partners may agree to alternative provisions for limited periods. There are no restrictions in the UK or Germany concerning reasons for TAW use, although, in the latter case, the works council in the user enterprise has a prior co-determination right concerning TAW (under section 99 of the Works Constitution Act) and, following decisions of the Federal Labour Court, concerning the working time of TA workers.

Limits on duration

Strict limits on duration apply in Greece, where a user company may not employ TA workers for a total period of over eight months. If this period is exceeded, the contract between the TA worker and the TWA is deemed to be automatically transformed into an open-ended employment contract between the TA worker and the client firm. In Luxembourg, the overall duration of an assignment

may not exceed 12 months for a given employee in a given post, within which up to two renewals may be included, except in relation to contracts for seasonal work. Any breach of these provisions similarly means that the contract is deemed to be open ended. In France, neither the objective nor the outcome of TAW can be to fill a post 'for a lengthy period' if that post is linked to 'a normal and permanent activity' of the client company. Specifically, the maximum duration for one contract is 18 months, renewals included. In Ireland, there is no limit on the duration or recurrence of contracts, however, the authorities are empowered to examine repeat contracting to identify if this is for the purposes of evading the provisions of unfair dismissal law. This has reportedly reduced the incidence of this practice.

In Portugal and Belgium, the maximum permitted duration depends on the reason for use. In Portugal, where the justification is the temporary substitution of permanent workers, the duration of the contract corresponds to the duration of the justifying cause. For other reasons, the limits are: during the recruitment process, six months; a temporary or exceptional increase in the activity, 12 months (which may be prolonged to 24 months with the authorisation of the IGT); seasonal work, six months in each year, as long as the seasonal nature of the work is sustained; and for a specifically defined task, etc, six months, which may be extended with authorisation from the IGT. In Belgium, the limit placed on the duration of TAW varies according to the reason for its use and also to whether the agreement of a trade union can be secured. For example, where the employment contract of a permanent worker is suspended, TAW is permitted for the duration of that suspension. Where the contract has been terminated, the limit is six months, with the possibility of a further six-month extension subject to trade union agreement. Where no union is present, the Social Fund must be informed in order to secure the extension. In the case of unusual work, the limit is normally three months. Prior agreement must be reached with the trade union in the case of replacing permanent staff (where the contract is not suspended) or for covering temporary peaks of work; in the latter case, the duration of TAW is limited to whatever the social partners agree. If there is no trade union, the limit for use in the case of covering busy periods is six months, with the possibility of two further six-month extensions, subject to the agreement first of the sectoral fund, and then of the bipartite mediation office.

Sectoral and occupational restrictions

While Belgium appears to be one of the more highly regulated countries in terms of TAW use, some sectoral and occupation restrictions have been liberalised in recent years. A ban on the use of temporary workers in the agriculture, horticulture and 'horeca' (hotels, restaurants and catering) sectors was lifted at the beginning of 2005, and the use of temporary workers has been authorised in the construction sector since 2001. In this case, TAW may only be used for the temporary replacement of workers whose contracts have been suspended and in dealing with temporary and exceptional peaks of work. A collective agreement in the sector also provides workers with special protection. Otherwise, TAW is prohibited in certain dangerous jobs and in the public sector, where it may only be used for replacing contracted officials (regular staff are, therefore, excluded).¹⁴

In Spain, the 1999 reform of the law prohibited the assignment of workers to dangerous occupations; within the TWA segment, i.e. to other agencies; and in public administration (except for carrying out opinion polls). Similarly, in Portugal, according to the 1989 Law for Temporary

¹⁴ There are also certain sectors, such as house removal and harbour-based enterprises, where TAW is prohibited by collective agreement at sector level.

Work Agencies (decree-law 358/89, as last modified by law 146/99), TA workers are not allowed to work in dangerous sectors, which includes the building construction sector. In France, there are no explicit sectoral restrictions, although in practice it is rarely found in the public sector, as these employers prefer to avail of less expensive forms of temporary work. In Germany, until 2004, TWAs were not allowed to supply workers for blue-collar jobs in the construction sector. However, there remains a requirement that collective labour agreements are applicable for both the agency and the client company, which presents a restriction as such generally binding collective labour agreements do not exist at present. In Norway, the state can, if believed necessary due to social considerations, prohibit agency work for certain categories of employees or in certain areas but, so far, this has not been done.

New Member States, Bulgaria and Romania

Legal status of TA workers

Three countries (Bulgaria, Cyprus and Lithuania) were unable to provide information concerning the legal status of TA workers, on the basis that their legal framework was under-developed or mainly related to employment mediators or brokers rather than TAW. Respondents in Estonia, Latvia, Malta and Poland reported that the TWA is the legal employer of agency workers, but were unable to say whether employment contracts tend to be fixed term or open ended. In the Czech Republic, Hungary, Romania, Slovenia and Slovakia, the legal employer is also the TWA, and respondents added that TWAs are allowed to employ agency staff either on an FTC or indefinite basis, albeit the latter is unusual. In Romania, for example, the duration of a TAW contract is usually that of a single work assignment, although with clauses allowing for the amendment of the specified time limit.

Licensing requirements

Most countries have recently established some form of licensing scheme. The exceptions are Lithuania and also Cyprus, where the licensing and regulatory system in general relates to private employment agencies (IGEEs), which act as employment brokers, rather than TWAs. No information was received from Bulgaria, however, it is reported that there is no specific legislation concerning TAW.

The earliest licensing scheme was introduced in Malta under the terms of the Employment and Training Services Act 1990 as amended, followed by Slovenia in 1999, where applicants must meet a number of organisational and personal criteria. For example, professional staff of the agency must be educated to a higher level than other workers, have at least two years' relevant experience, and pass a professional examination. Agencies are supervised by the labour ministry and inspectorate, and must submit to them an annual report on their activities. In the Czech Republic, the labour and social affairs ministry issues licences subject to criteria relating to age (over 23 years), residency, personal integrity, educational qualifications and experience. No financial guarantees are required, but a licence fee is charged (currently CZK 10,000 (about €350) if the business involves international placements and CZK 1,000 for activities solely carried out within the country). The labour office has the authority to perform inspections to ensure that employment regulations are enforced, although this is reportedly conducted only in response to a complaint.

The Hungarian licensing system was introduced in 2001. The licensing authority is the regional office of the public employment service (Állami Foglalkoztatási Szolgálat, ÁFSZ). Applicants must

have permanent premises, possess the necessary competencies, and have a collateral of approximately €4,000. An amendment to the Act on Labour Inspection in 2003 clarified the right of the labour inspectorate to investigate both TWAs and user companies for suspected illegal practices. The registration system in Poland began in 2003 under the labour affairs ministry, which also supervises TAW. Companies are required to submit a detailed annual report of placement activity. Until recently, they also had to lodge a financial security, set at the minimum of 50 times the average pay in the economy, but this obligation was withdrawn in December 2004. The employer organisation for TAW (ZAPT) believes, however, that the current registration process is too lax and requires a tighter degree of control.

The Romanian licensing scheme was established by secondary legislation in 2004 and elaborated by government decision No. 226 in 2005. The requirements include a financial guarantee amounting to no less than 25 times the national minimum gross wage plus social contributions. The licence, which also attracts a fee of three times the national minimum gross wage, lasts for two years but, after four years of operation, the company may apply for permanent authorisation. In Slovakia, the licensing system was introduced in 2004 and licensees must have a full secondary education and have no criminal record. The licence is provided for a fee of SKK 3,000 (about €80) for legal entities and SKK 1,500 for individuals. It lasts for five years, although it may be extended at additional cost. Agencies are also subject to labour inspection in order to ensure the employment protection and fair treatment of TA workers. In Estonia, the TWA must be licensed by the Ministry of Social Affairs, and in Latvia by the state employment agency (*Nodarbinātības Valsts aģentūra*, NVA).

Main provisions of national legislation

Within this group of countries, half have little or no specific statutory framework of regulation in place (Bulgaria, Cyprus, Estonia, Latvia, Lithuania and Malta). These tend to be smaller economies with limited usage of TAW; possibly, their governments may also have been awaiting developments at EU level. The International Labour Office (ILO) appears to have been of some influence, however. Lithuania has ratified the ILO Private Agencies Convention No. 181, which came into force on 1 March 2005, and legislation is currently being prepared to regulate, and indeed legalise, this form of employment relationship. There are also other legislative and policy developments relevant to TAW in some of the other countries that do not yet have a specific regulatory framework. In Estonia, for example, the Employment Service Act 2000, which refers to the related activity of employment mediation services, may be interpreted as extending to some TWAs. This introduces a licensing system and ensures that individuals are not charged for using the service. A similar situation applies in Malta under the Employment Agencies Regulations 1995; the general Employment Contracts Act 1992 and Law of Obligations Act 2002 are also relevant in regulating the direct relationship between the TWA and its workers. In Latvia, recruitment companies are allowed to operate under licence and are permitted to place workers on a temporary basis. Workers are treated as employees of the TWA, which sets their work conditions. More specific regulations apply to FTCs, however, such as a maximum duration of two years, or 10 months for seasonal work.

Those countries with more developed legal regulation of TAW have introduced arrangements very recently, underlining the rapid current growth. The main points are itemised in Table 8 and discussed for each country in turn below. None of these countries have statutory limits on sector or occupation of placements (beyond references to dangerous work, as in Poland), nor on the number/proportion of TA workers that may be contracted by a user enterprise.

Table 8 Main areas of statutory regulation, NMS, Bulgaria and Romania

Country	Dates	Equal treatment	Reasons for use	Limits on duration	Prohibition on use in strikes
PL	2003	✓	✓	✓	✓
RO	2003–5	✓	✓	✓	✓
SI	1998, 2002–3	✓	X	✓	✓
CZ	2004	✓	X	✓	✓
SK	2004	✓	X	X	X
HU	2001	X	X	X	✓

Source: NC reports; Eurociett (Poland)

The first regulations on TWA employment in Romania were introduced in 2003 with the passing of the new labour code. This provides the basic definitions of TWA work, contracts and parties. Secondary legislation was passed in the form of government decision no. 938 of 10 June 2004 on TWA establishment, operation and licensing procedures (subject to further amendment in March 2005). Under the law, the reasons or circumstances that permit TAW are: to temporarily replace a permanent employee who has been suspended; to perform seasonal work; or to carry out special tasks or occasional work. TA workers may not be offered employment conditions or wages inferior to those of the user company's permanent employees performing the same or similar work. If the temporary worker carries out an entirely different activity, then wages are to be regulated by rules laid down in any company collective agreement. The length of a temporary work assignment may not normally exceed 12 months; it may be extended only once, but must not exceed a total of 18 months.

In Slovenia, TAW was made possible by amendments to the law on Employment and Unemployment Insurance in 1998 (amended further in 2002), but the most important regulations are set down in the Law on Labour Relations, which came into force from 1 January 2003. This law draws on ILO convention no. 181 and ILO recommendation no. 18, and states that TAW must not be used to replace striking workers; where work is dangerous; in circumstances of collective redundancy in the previous year; or in other cases determined by sectoral agreement. Article 59 also states that a TWA 'may not provide workers to the user firm continuously or with interruptions of up to one month for more than one year where this is for the same work'. The following article guarantees agency workers the same pay and conditions of work as comparable employees of the user enterprise.

The first specific legislation for TAW employment in the Czech Republic was the Employment Act 2004 (though the temporary assignment of employees had previously been permitted under Section 38, paragraph 4 of the labour code). The new legislation was designed to clarify legal relationships and provide better protection for TA employees following ratification of ILO convention no. 181 in 2001. Under the new law, a TWA may assign an employee to the same user for a maximum period of 12 consecutive calendar months, unless the employee requests a longer period or if the work being done is replacing that of an employee on maternity or family leave. The maximum total period for repeat fixed-term employment periods is set at two years. The TWA and user company are also obliged under Section 38b (5) of the labour code to ensure that the TA worker's pay and working conditions are no worse than those of an equivalent employee, where this is applicable.

In Poland, legislation concerning the employment of TA workers was introduced in July 2003 and came into force as of 1 January 2004. It states that:

- for the duration of her/his placement with the user employer, the temporary employee may not receive less favourable treatment than direct employees retained in the same, or a similar, capacity;
- the maximum employment period is an aggregated 12 months over a period of 36 consecutive months, except when covering for an absent employee when the maximum period becomes 36 months (although that particular TA employee may not be assigned to the same user employer for 36 months thereafter);
- the use of TA workers is prohibited where there has been a collective redundancy in the previous six months or an individual redundancy in the post in the previous three months, and for dangerous work (which embraces the construction sector);
- the valid reasons for companies to use TAW are for seasonal, periodical, or ad hoc work; work that cannot be performed by the permanent employees of the user employer; or in circumstances where the permanent employee of the user company is absent.

Use of TAW was defined in Slovakia in 2004 by Act no. 5/2004 on Employment Services, etc. This places relatively few restrictions on TAW except in so far as the employment, working and wage conditions of TA workers have to be the same as for comparable employees on open-ended contracts at the user employer. In Hungary, the main legal development was an amendment to the labour code in 2001 that added a new title on 'employee leasing'. This clarified the contractual position and obligations of the parties but imposed little by way of restrictions or requirements on TAW beyond the stipulation that use may not be made in the course of a strike. An amendment in 2003 clarified the inspection regime for TWAs.

Systems of self-regulation

3

The state licensing and other regulatory initiatives discussed in Chapter 2 may be taken as official recognition of TAW as an employment form in its own right. However, how far TAW is effectively organised as a group depends on the presence and role of employer organisations and trade unions, and in particular the extent to which systems of self-regulation are maintained, either by voluntary codes of practice or by collective bargaining.

This chapter only briefly discusses the arrangements that employers themselves have introduced to ensure certain standards of ethics and professional behaviour, due to the limited amount of data provided by the NCs. However, it seems that, in most of the countries where TAW is well established and employers are organised into trade associations, self-regulation by codes of conduct and professional accreditation for member companies is a potentially significant form of governance. Such codes commonly stipulate conditions and requirements relating to:

- the internal management of TWAs, such as accounting procedures;
- relations with user companies;
- relations between TWAs and agency workers, including confidentiality of information; provision of training; safety at work; the principle of non-discrimination; observing the provisions of relevant collective agreements, e.g. in Italy and Denmark, as well as social legislation and other laws; and arrangements for any complaints or appeals procedures for TA workers.

In the UK, the Recruitment and Employment Confederation (REC), which is the main trade association representing all sectors of TAW, operates a Code of Good Practice and several voluntary audit schemes. All members, which together account for 67% of the industry, have to abide by the code, and the REC operates a complaints function and investigates any alleged contraventions. Confirmed breaches are referred to the Professional Standards Committee, which includes representatives from the Trade Union Congress and the Department of Trade and Industry. The ultimate sanction is expulsion. Likewise, in Germany, the German Association of Private Employment Agencies (Bundesverband Zeitarbeit Personal-Dienstleistungen, BZA) has its Principles for the Exercise of Profession, which govern the behaviour of TWAs concerning employees, applicants, client businesses, the general public, the authorities, and the association itself. The purpose of the code is to help ensure quality, transparency and ethical behaviour. Even in the countries where TAW is a newly emerging form of employment, such initiatives may be used (as in Poland and the Czech Republic) as a means of improving the reputation and status of TAW as perceived by potential customers, employees and the regulating authorities. In many cases, these codes and rules are directly inspired by the best practice recommendations of CIETT, to which most of the major employer organisations belong.

Notwithstanding the significance of employers' voluntary self-regulation initiatives, the main focus in this chapter is on where and how collective bargaining has developed in this group, whether endogenously or with some degree of sponsorship by the state. Particular attention is paid to sectoral level agreements as these provide the industry benchmark in the different countries, and because an authoritative picture of micro-level developments within individual companies is more difficult to obtain.

EU15 and Norway

All of the EU15 countries plus Norway have employer organisations for TAW, often more than one because of differentiation by size or region. These are indicated in Table 9, as is the presence of trade unions and whether there is any collective bargaining conducted at sectoral level. Trade union presence and organisation varies in the different countries. Membership density tends to be low and, given that TWAs are often active across a number of different sectors, there are no specialist unions representing TA workers apart from arrangements made for bargaining at sectoral level in Italy, under the umbrellas of the principal union confederations.

Sectoral level collective bargaining is observed in all countries but the UK, Ireland, Greece, Norway and Portugal. In the UK, there are isolated examples of company agreements, notably a recognition agreement signed by Manpower and the Transport and General Workers' Union in 1988. The GMB general union has also reached national collective agreements with a number of agencies, including Montrose, Adecco and Apollo 2000, and reports various local and regional agreements with smaller TWAs. In Ireland, the employer organisation, the National Recruitment Federation (NRF), which has around 100 TWA members, does not enter into collective bargaining, although it does make submissions along with the trade unions to the intersectoral National Agreement and to any consultation exercises concerning proposals for legislative change.

In Norway, the majority of TWAs are organised in the National Federation of Service Industries (Servicebedriftenes Landsforening, SBL) through the branch organisation the Association of Staffing and Recruiting Services (Bemannings- og Rekrutteringbransjens Forening, BRF), which covers approximately 85% of the group by volume. Union density among agency workers is low (14% according to a 1998 survey). Traditionally, TA workers were based mainly in office work, so were organised by HK (Handel og Kontor), an affiliate of the Norwegian Confederation of Trade Unions (Landsorganisasjonen i Norge, LO). A national agreement was made between HK/LO and the Federation of Norwegian Commercial and Service Enterprises (Handels- og Servicenæringens Hovedorganisasjon, HSH) but, soon after the agreement was signed, most agencies left HSH and the agreement never came into force. Currently, there is no sectoral level bargaining and the few collective agreements relate to particular occupations, such as nurses.

In Portugal, the employer organisation, the Portuguese Association of Temporary Work Companies (Associação das Empresas de Trabalho Temporário, APETT), which was founded in 1987 by eight TWAs (and now represents 53 member firms, about 21% of the total number but accounting for 80% of business volume), signed a collective agreement on TAW with the office and services sector union Federation of Office and Services Workers' Unions (Federação dos Trabalhadores dos Escritórios e Serviços, FETESE) in 1989. However, the agreement never had any real impact as it was overtaken by the more detailed legislation passed in the same year, and it has never been renegotiated. Elsewhere, collective bargaining at sectoral level assumes an important regulatory role. The situation in each country is now briefly summarised in turn.

Table 9 Organisation of the sector in the EU15 and Norway

Country	Employer organisations	Trade unions	Collective bargaining
AT	The Association of Temporary Work Agencies and Job Placement Agencies (Österreichischer Verband Zeitarbeit und Arbeitsvermittlung, VZA); also for blue-collar work in the crafts and trades association of the Austrian Chamber of Economy (Wirtschaftskammer Österreich, WKÖ)	BC: Metalworking and Textiles Union (Gewerkschaft Metall-Textil, GMT)	✓
BE	FEDERGON (Fédération des partenaires de l'emploi/Federatie van partners voor werk)	Three trade unions	✓
DE	<ul style="list-style-type: none"> German Association of Private Employment Agencies (Bundesverband Zeitarbeit Personal-Dienstleistungen, BZA) Association of German TWAs (Interessengemeinschaft Deutscher Zeitarbeitsunternehmen, iGZ) Association of medium-sized personnel service companies (Arbeitgeberverband Mittelständischer Personaldienstleister, AMP) 	No specific information (collective agreements signed for the trade unions at federation level)	✓
DK	<ul style="list-style-type: none"> Danish Commerce and Service (Dansk Handel og Service, DHS) Association of TWAs in Denmark (Foreningen af Vikarbureauer i Danmark, FVD); also VICE and FASID (see text) 	Relevant occupational unions	✓
EL	Greek Union of Temporary Employment Companies (ENEPASE)	No trade union for temporary employees	X
ES	<ul style="list-style-type: none"> Association of Large TWAs (Asociación de Grandes Empresas de Trabajo Temporal, AGETT) State Association of TWAs (Asociación Estatal de Empresas de Trabajo Temporal, AETT) Association of TWAs (Asociación de Empresas de Trabajo Temporal, FEDETT) 	Mainly the General Workers' Confederation (Unión General de Trabajadores, UGT) and the Trade Union Confederation of Workers' Commissions (Comisiones Obreras, CCOO)	✓
FI	Private Employment Agencies Association (Henkilöstöpalveluyritysten Liitto, HPL)	Various unions	✓
FR	Association of TWAs (Syndicat des Entreprises de Travail Temporaire, SETT)	The five main unions (CGT, FO, CFDT, CGC, CFTC) are represented	✓
IE	National Recruitment Federation (NRF)	Limited; various sectoral/occupational unions	X
IT	<ul style="list-style-type: none"> Italian Confederation of TWA Associations (Confederazione Italiana delle Associazioni delle Imprese Fornitrici di Lavoro Temporaneo, Confinterim) National Association of TWAs (Associazione Nazionale delle Imprese di Lavoro Temporaneo, AILT) Work Agencies Associated (Agenzie Per il Lavoro Associate, APLA) 	<ul style="list-style-type: none"> New Identities of Labour (Nuove Identità di Lavoro, Nidil-CGIL) The Atypical and TA Workers' Association (Associazione dei Lavoratori Atipici e Interinali, Alai-CISL) The Committee for Occupations (Comitato per l'Occupazione, CPO-UIL) 	✓
LU	Union of TWAs (Union Luxembourgeoise des Entreprises de Travail Intérimaire, ULEDI)	No specific union; agreements signed for trade unions at federation level	✓
NL	<ul style="list-style-type: none"> General association of TWAs (Algemene Bond Uitzendondernemingen, ABU) The Dutch Association of TWAs (Nederlandse Bond van Bemiddeling en Uitzendondernemingen, NBBU) 	Agreements signed with the three main unions	
NO	Association of Staffing and Recruiting Services (Bemannings- og Rekrutteringsbransjens Forening, BRF)	Mainly the Union of Employees in Commerce and Offices (Handel og Kontor, HK)	X
PT	Portuguese Association of Temporary Work Companies (Associação das Empresas de Trabalho Temporário, APETT)	Federation of Office and Services Workers' Unions (Federação dos Trabalhadores dos Escritórios e Serviços, FETESE)	X
SE	Association of Staff Agencies (Bemanningsföretagen)	BC: Swedish Confederation of Trade Unions (Landsorganisationen, LO) WC: Salaried Employees' Union (Tjänstemannaförbundet, HTF)	
UK	Recruitment and Employment Confederation (REC); other smaller specialist associations, e.g. for nursing; IT; entertainment	Limited, but various general unions	X

Source: NC reports, supplemented by input from social partners. Organisations are referred to by their acronyms in the text where these are elaborated in the table.

Sectoral level collective bargaining

One of the most long-standing and innovative systems of collective agreements at sector level is found in the Netherlands. Dutch TWAs are organised in the General association of TWAs (Algemene Bond Uitzendondernemingen, ABU), which has 305 members (accounting for more than 65% of market turnover) and the Dutch Association of TWAs (Nederlandse Bond van Bemiddeling en Uitzendondernemingen, NBBU), which has around 315 mainly small and medium-sized enterprise (SME) members, while employees are organised in unions connected to the main trade union federations, FNV Bondgenoten, CNV Dienstenbond and De Unie. Sectoral level agreements date back to 1985, preceded by agreements covering parts of the industry, and the most recent is a five-year deal signed by ABU and the three trade unions, commencing from March 2004. These agreements are usually declared generally binding, so apply to the entire TAW class, except for those firms covered by an agreement reached by the NBBU with the smaller trade union LBV. The so-called 'ABU-CAO' agreement covers 90% of the TAW segment.¹⁵ The current collective agreement includes provisions on training and a time-related remuneration scheme. When an employee works 26 weeks for the same user company, that client has to pay the agency worker the same wage and overtime rates as permanent employees in the company. The ABU-CAO agreement also applies a system of phases that link employment rights and obligations to longevity of placement.

- Phase A applies to the first 78 weeks' work for the agency (whatever the number of contracts). The employee in phase A works under an employment clause (or 'contract at will') which states that the contract with the agency ends when the contract between agency and hirer ends, although a new contract can be started. The employment clause also gives the employee the right to discontinue working at any time. When an interruption of 26 weeks between contracts occurs, a new phase A begins.
- Phase B is the period after 78 weeks and lasts for two years, or up to eight FTC contracts, whichever comes first. During phase B, the employment clause can no longer be included, so effectively only fixed-term contracts are possible. The agency is thus obliged to pay and find suitable work for the worker until the expiration of the contract, even if the user company ends the contract with the TWA. Any interruptions of less than three months count as part of the total duration of phase B.
- After having worked a likely 3.5 years for the same agency, the TA worker reaches phase C. In that phase, the temporary employee has a contract for an indefinite period and the agency has to find a suitable job when the hirer ends the contract with the agency. As in phase B, but not in phase A, wages are paid in the case of idle time and between contracts when it is not the TA employee's fault that he or she is not working. Sick pay is applicable in each phase.

In Belgium, regulation by collective bargaining is also highly developed. The trade unions and employer organisations sign collective agreements at national level via the National Labour Council (Conseil National du Travail/Nationale Arbeidsraad CNT/NAR); at sectoral level through the joint commission for temporary work (CP 322); and also at enterprise level. The situation in Belgium is somewhat unique in that there is also an employer organisation, representing the interests of user companies, that participates in the regulation of TAW. The Belgian Federation of Employers (Fédération des Entreprises de Belgique/Verbond van Belgische Ondernemingen,

¹⁵ The employer organisation also reports that collective agreements in other sectors and at company level are also relevant in that they sometimes have clauses relating to TAW, e.g. restrictions on numbers or reasons for use.

FEB/VBO) sits on CP 322 and, as such, takes part in sectoral negotiations; it also participates in wider negotiations through its place on the CNT/NAR. Since 1991, there has also been a mediation committee (Commission des Bons Offices) for the TWA segment, made up jointly of the trade unions and the employers' federation.

In Denmark, TAW is considered part of the service sector and the TWAs are organised mainly in the DHS, which has responsibility for collective bargaining. The DHS has three separate associations relevant to TAW, the oldest of which is the FVD. The second is VICE (Vikarbureauer Certificerede i Danmark; TWAs Certified in Denmark), a self-certified trade association formed by the four largest companies (Adecco, Manpower, Randstad and Temp-Team) which left the FVD in 2004; and the third is a specialist association of nursing TWAs (Foreningen af Sygeplejevikarbureauer I Danmark, FASID). FASID is the only association that has the right to negotiate collective agreements separately from the DHS, which estimates that 80% of all TA workers are employed among its member companies. TA workers are organised in trade unions following occupational lines. The DHS has concluded general agreements covering TAW with unions in the education sector and with the United Federation of Danish Workers (Faligt Fælles Forbund, 3F), covering 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 (Forbundet af Offentligt Ansatte, FOA¹⁶); and the Danish Association of Social Workers (Dansk Social Rådgiverforening, DS).

In Austria, the first collective agreement was concluded between the GMT and the general crafts and trades association of the WKÖ in January 2002, some 14 years after TAW was placed on a legitimate footing by the AÜG (1988 Temporary Employment Act). It covers blue-collar agency workers, particularly when they are not hired out to a user company, since during the placement, the collective agreement covering the user company applies. White-collar workers are covered by the collective agreement for white-collar workers in crafts and trades enterprises (Allgemeines Gewerbe).

In Germany, there are three employer organisations. Members of the BZA include some of the major companies like Adecco, Manpower and Randstad, and the organisation currently has 440 member firms with 1,800 branches. The iGZ represents SMEs and has 881 member companies with about 2,000 branches. Two smaller employer organisations merged in July 2005 to form the AMP, which claims to have about 850 member companies. Each organisation covers about 100,000 employees. Following the change in the law in 2002, a number of collective agreements have been made. The first were two national cross-sector collective agreements on pay, working hours and employment benefits, signed separately by the Confederation of German Trade Unions (Deutscher Gewerkschaftsbund, DGB) with the BZA and iGZ. New pay agreements between the bargaining parties were subsequently concluded at the end of 2004 and in February 2005. In addition, the two precursor employer organisations of the AMP signed separate collective agreements in 2003 with an association of trade unions affiliated to the small Christian Federation of Trade Unions (Christlicher Gewerkschaftsbund, CGB). There are also a number of collective agreements made at company level with individual trade unions, e.g. between ver.di and Randstad in 2000 (recently replaced by collective agreements made through the BZA), and between Adecco and six trade unions to cover the Expo exhibition in Hanover in 2000.

¹⁶ This union recently changed its name to Trade and Labour (Fag og Arbejde, FOA).

There are three employer organisations in Spain: AGETT, which claims to represent 60% of TAW; the AETT, representing around 100 SMEs; and the mainly regional association FEDETT, which includes the Association of Temporary Employment Agencies of the South (Asociación de Empresas de Trabajo Temporal del Sur, ATTESUR). National collective agreements for the segment have been concluded since the mid-1990s by the main employer organisations and the principal trade union confederations, CC.OO and the UGT. The latest, fourth agreement, was signed in April 2004 and lasts for three years. Its main provisions for so-called 'structural' staff employed directly by TWAs include a pay award; a reduction in annual working time; a 'nursery bonus' to be paid to female workers with children under the age of three years; a requirement that 65% of the structural staff of the agencies must have an open-ended employment contract, instead of the previous 50%; and a clause providing for full pay for the first two months of absence due to industrial accident or occupational illness. The agreement also included a commitment by the trade unions not to seek clauses in collective agreements elsewhere that might hinder the contracting of TWA services, and to work to eliminate such prohibitive clauses in existing sectoral agreements.

Such restrictive agreements are also found in Finland, often limiting TAW to busy periods or to certain types of work not normally carried out by the permanent staff of the user company.¹⁷ The main sector employer organisation, the HPL, has around 140 member companies and has concluded two collective agreements: for the clerical work, book-keeping and IT work sector with the Federation of Special Service and Clerical Employees (Erityisalojen Toimihenkilöliitto, ERTO); and for restaurant musicians with the Finnish Musicians' Union (Suomen Muusikkojen Liitto, SML). One of HPL's member companies has also entered into an enterprise-level agreement. In addition, the largest TWA (Varamiespalvelu-Yhtiöt), which is not a member of HPL, has collective agreements with the Service Union United (Palvelualojen ammattiliitto, PAM) and the Chemical Workers' Union (Kemianliitto). Otherwise, as stipulated by the Employment Contracts Act, when there is no binding collective agreement specifically for TAW, the collective agreement of the user enterprise has to be followed.

In France, there is one employer organisation, the SETT, which belongs to the Movement of French Businesses (Mouvement des Entreprises de France, MEDEF). The sector has its own Temporary Work Social Action Fund (Fonds d'Action Sociale du Travail Temporaire, FAS-TT), giving access to housing, consumer credit, insurance with mutual societies, study grants and children's holidays; and a Temporary Work Training Insurance Fund (Fonds d'Assurance Formation du Travail Temporaire, FAF-TT), which finances any training undertaken as part of sectoral level agreements, e.g. training programmes, individual study leave, and periods of alternating work experience and training courses for young people. Many collective agreements have been signed within the TAW segment regarding welfare protection, vocational training, occupational medicine, union rights and staff representation, in addition to company agreements in some of the big firms. Significant sectoral level agreements include those relating to training programmes (8 June 2000; 8 July 2004) and, in 2002 and 2003, employment protection concerning health and safety at work, night work, welfare insurance and training options. A further collective agreement was made in September 2005 between SETT and the unions CFTD, CFE-CGC and CGT-FO, to amend the permitted reasons for use in line with the Social Cohesion Act.

In contrast, there are three employer organisations in Italy: Confinterim, with 39 members; the AILT, which represents 18 TWAs and is affiliated to Confindustria; and the recently established APLA. Trade union organisation is relatively well developed, since cross-sectoral representation

¹⁷ Agreements in the paper industry have been notably restrictive, although this was partially lifted following a dispute in July 2005.

structures for atypical workers were created by each of the three trade union confederations (CGIL, CISL and UIL) between 1998 and 1999. By September 2002, these bodies had 15,000–20,000 members each. Their bargaining power is somewhat restricted by the fact that members come under the various sectoral agreements applied in the user companies; however, two collective agreements for TA workers have been signed, in 1998 and 2002 (extended in 2003 to cover workers on staff leasing contracts). The agreements mainly regulate legal aspects of the employment contract, since determination of the substantive part is deferred to the relevant agreements applying to the user company. The second national agreement was significant, as it created two bilateral bodies (EbiTemp and FormaTemp) to provide certain services for TA workers.

In Luxembourg, most TWAs are members of ULEDI. Its first two collective agreements were signed in 1998, four years after the legalisation of the segment, with the nationally representative trade union confederations, the Luxembourg Confederation of Independent Trade Unions (Onafhängege Gewerkschafts-Bond Lëtzebuerg, OGB-L) and the Luxembourg Confederation of Christian Trade Unions (Lëtzebuenger Chrëschtliche Gewerkschafts-Bond, LCGB). One agreement dealt with the working conditions of TA workers and the other covered the permanent staff employed by TWAs. In 2004, a new three-year collective agreement for white-collar TA workers was concluded with OGB-L.

In Sweden, a branch agreement covering office and commercial workers was first concluded between the Swedish Commerce Employers' Association (HAO) and the Salaried Employees' Union (HTF) in 1988 (Eklund, 2002). This was significant because it presupposed that the employment contract between the TWA and TA worker would be for an indefinite period rather than entered into for each separate assignment, even though work would only be performed when it was available. In order to underscore this, the agreement provided for a guarantee of an average 20 hours' pay per week whether or not gainful work was performed. This was raised in 1998 to 75% of full monthly pay by an agreement signed by the predecessor of Bemanningsföretagen, the Almega Services' Employers' Association; the union HTF; and also for professionals by the Swedish Association of Graduate Engineers (Sveriges Civilingenjörsförbund, CF). It has been renewed twice, most recently in 2004. It covers around 20,000 employees and lasts until 2007. The white-collar and professionals' national/sectoral collective agreement is primarily an agreement on pay and working conditions, and today each employee is guaranteed 80% of their normal monthly wage when they are hired out for a shorter period. The first blue-collar agreement was concluded between Bemanningsföretagen and the 16 relevant trade unions in the LO in 2002. It was renewed in 2004 for one year, and again from 2005 to 2007, and covers about 15,000 workers; its main provisions also concerned income guarantees. Also worthy of note is an authorisation agreement signed in October 2004 between the LO, HTF, some of the professions and Bemanningsföretagen. Around one in five TWAs have chosen to become 'authorised' as a sign of quality assurance and ethical commitment, and participants agree to be bound by relevant collective agreements.

New Member States, Bulgaria and Romania

In contrast to many of the EU15 countries, there is no sectoral level bargaining in these 12 countries, and indeed more than half of them do not have an employer organisation for TAW. In Bulgaria, there is no information about any employer organisation or trade union presence in the segment, such as it is, and no data concerning collective bargaining. There is also a lack of information relating to Cyprus, where the NC reports that there is no clearly defined institutional

framework. In Latvia, there is no employer organisation and no collective bargaining reported between TWAs and trade unions. In Malta, there is no employer organisation or any notable trade union presence in its small TWA segment. The legal framework permitting TAW only came into force in Romania in 2005 and in Slovakia in 2004, hence there are no employer organisations as yet and no collective bargaining has taken place in these countries. Likewise, in Lithuania, until 2005, there was neither legal regulation nor self-regulation through collective agreements, and TAW remains under-developed.

In Estonia, the employer organisation (Eesti Personalivahenduse ja Rendiettevõtete Liit, EPVL) was registered in June 2005, although two of the major agencies, Personalipunkt Extra OÜ and Varamiespalvelu OÜ, were previously members of the Estonian Employers' Confederation (Eesti Tööandjate Keskliit, ETTK). The main objectives of the EPVL are to supervise the activities of affiliated members, communicate with government institutions, and eliminate unlawful TWAs. So far, there has been no collective bargaining in the segment. There is also a recently established association in Hungary, the Hungarian Federation of Personnel Management Advisors (Személyzeti Tanácsadók Magyarországi Szövetsége, SZTMSZ), which has a specialist section for TWAs. SZTMSZ has elaborated codes of conduct for its member organisations, including the TWAs. Again, the organisation does not engage in collective bargaining. The same applies to the Czech Republic, where TA workers are not organised into unions and collective negotiations do not take place, but there is an employer organisation, the Association of Personnel Services Providers (Asociace poskytovatelů personálních služeb, APPS), set up in 2002 to promote professional conduct and to represent TAW to the authorities. It currently has nine large agencies in its membership. A similar situation applies in Poland, where the Union of Temporary Employment Agencies (Związek Agencji Pracy Tymczasowej, ZAPT) has 12 member companies. No collective agreements have been executed, but one notable initiative was a meeting organised by the District Labour Inspectorate in the city of Łódź between ZAPT and representatives of the Independent and Self-Governing Trade Union 'Solidarność' (Niezależny Samorządny Związek Zawodowy 'Solidarność', NSZZ S). The meeting dealt with union concerns over alleged violation of employee rights by TWAs, but ZAPT argued that there were hundreds of agencies operating beyond their organisation and, accordingly, beyond the reach of their strict ethical and enforcement standards. In Slovenia, there is no specific employer organisation, but TWAs are members of the Chamber of Commerce and Industry of Slovenia (Gospodarska zbornica Slovenije, GZS) and the Slovene Employers' Association (Združenje delodajalcev Slovenije, ZDS).

Temporary agency work is an increasingly significant form of employment in the EU. In most of the EU15 countries and Norway, it accounts for around 1% to 2% of total employment, involving millions of individuals and jobs. Many of these countries experienced strong growth in TAW in the mid to late 1990s due to economic growth and changes in regulatory systems. The extent of TAW in the NMS and in Bulgaria and Romania is much more limited, not least since the employment form has only recently been granted legal recognition. However, strong growth has been reported in recent years, and large multinational TWAs have established a presence in these newly developing markets.

The first steps in the legal regulation of TAW by the EU15 and Norway were taken from the 1960s to the mid-1970s by the larger economies and by other countries in northern Europe. The remainder legislated from the late 1980s to the turn of the new century. There are variations between countries in the main sectors and occupations using TAW, with some utilising it mainly for manufacturing, others for services and a third group using it for a combination of the two. Many of these jobs are skilled technical and professional positions, but a large proportion of TAW, whether blue- or white-collar, is generally used for low-skilled work. This is not surprising as firms may be more likely to shelter such workers within internal labour markets for retention and development purposes, and since the use of variable labour is naturally less problematic for jobs without significant entry barriers. On the supply side, specific labour market groups for which temporary work might hold appeal as a means of acquiring work experience and developing abilities, such as students and women returning to work after family-related absence, may also be less likely, as yet, to hold highly marketable skills.

There is also variation between countries in the typical duration of placements, which seem to be mainly short term, although a number of countries also demonstrate a bipolar pattern with a significant proportion of long-service assignments. As would be expected, countries with legal restrictions on the duration of TAW (or those where they have only relatively recently been removed) demonstrate some of the shortest averages, but these are by no means exceptional cases. The employment of TA workers by TWAs is rarely on an open-ended basis, although data are limited in this regard.

In the circumstances, most of the EU15 countries and Norway have some provision, whether by statute or under the terms of collective agreements, for equal treatment between TA workers and permanent employees in the user company. On the whole, TAW is well regulated in these countries. Most have well established legal frameworks for the regulation of TAW, which in a number of cases have been recently revised in response to, and to facilitate, sectoral growth. More or less common restrictions placed on TAW include permissible reasons, duration, sectors and occupations for use, in addition to equal treatment provisions. Several of the NMS have also recently introduced similar frameworks, sometimes influenced by ILO recommendations as well as comparable practice elsewhere. Licensing arrangements are also common, and are usually backed up by strong codes of practice, where employers are well organised within their national sector.

The distinction between the EU15 and the NMS is most pronounced when it comes to the self-regulation of the group. All of the EU15 (plus Norway) have representative employer organisations and some degree of trade union organisation. Almost all engage in sectoral level collective bargaining, and this assumes an important regulatory role whether the law is relatively strong, e.g. Belgium and France; where it serves as a substitute for or development of relatively weak statutory

provisions, e.g. Denmark and the Netherlands; or at all points in between. In contrast, none of the NMS employ sectoral level collective bargaining. This might help to explain why some of these countries that are experiencing TAW growth have opted for a more or less robust legal regulatory framework. Without a social partner capacity for effective self-regulation, it is up to the law to advance the reputation of this employment form to both user companies and individual TA employees, and to reduce trade union and political objections to TAW itself. Regulation in this sense helps to legitimise the activity of TAW and thereby the normalisation of the segment in these start-up situations.

Nevertheless, the experience of most countries with more mature TAW demonstrates the importance of self-regulation and the need for both law and collective agreements to achieve an effective balance between employment flexibility, equality and security. Some countries with sophisticated arrangements for collective bargaining have demonstrated a regulatory shift from statutory to collective provisions in recent years. Others maintain a twin-track approach, although with differing emphases on the law or collective bargaining. A couple of exceptional cases pursue a voluntarist approach where both law and collective bargaining are fairly limited. Yet, despite this variety within different national systems in the form of regulatory approach, and exceptions aside, there is a somewhat surprising degree of commonality of outcomes in that, taken together, government regulation and self-regulation by collective bargaining provide a range of employment protections while facilitating the continued growth of TAW.

In this sense, there are fewer differences between the two groups of countries than might first have been anticipated, and even some convergence between the two in terms of law, although the notable absence of sectoral level bargaining in the NMS and Bulgaria and Romania will no doubt remain an enduring distinguishing characteristic for some time.

References

- Chaidron, A., *Institutional representativeness of trade unions and employer organisations in the temporary agency work sector*, IST (Louvain) Report for Employment and Social Affairs Directorate-General of the European Commission, Brussels, European Commission, 2004, [www.trav.ucl.ac.be/research/interim final relu.pdf](http://www.trav.ucl.ac.be/research/interim%20final%20relu.pdf).
- Dunnewijk, T., *Temporary work agencies in the Netherlands: Emergence and perspective*, Cbp Report 2001/1, The Hague, CPB Netherlands Bureau for Economic Policy Analysis, 2001, www.cpb.nl/eng/cpbreport/2001_1/s2_3.pdf#search='dutch%20law%20on%20temporary%20agency%20work.
- Eklund, R., 'Temporary employment agencies in the Nordic countries', in *Stability and change in Nordic labour law, Scandinavian Studies in Law*, Vol. 43, 2002, pp. 311–33, <http://arbetsratt.arbetslivsinstitutet.se/filer/pdf/ronnie%20eklund/eklund-bemanningsforetag.pdf>.
- European Foundation for the Improvement of Living and Working Conditions, *Impact of training on people's employability*, Luxembourg, Office for Official Publications of the European Communities, 2005, www.eurofound.eu.int/ewco/reports/TN0506TR01/TN0506TR01.htm.
- Storrie, D., European Foundation for the Improvement of Living and Working Conditions, *Temporary agency work in the European Union*, Luxembourg, Office for Official Publications of the European Communities, 2002, www.eurofound.eu.int/publications/files/EF0202.htm.

Appendix:

Data sources and notes for statistical tables

Note: All data in tables refer to 2004 unless otherwise specified

Table 1: TAW employment, firms and turnover in the EU15 and Norway

Source

AT	Federal Ministry of Economics and Labour (BMWA); Number of firms: Employer organisation via CIETT.
BE	Employer organisation (FEDERGON) via CIETT.
DE	Federal Employment Agency (BA), Arbeitsmarkt in Zahlen – Arbeitnehmerüberlassung 1. Hj. 2004; Number of firms: Employer organisation via CIETT.
DK	Statistics Denmark and NC calculations from EO (DHS); Number of branches, turnover (for year 2000): Employer organisation via CIETT.
EL	Number of workers: Adecco. Proportion of workers and sector turnover: CIETT.
ES	Employer organisation (AGETT). Number of TAW firms: <i>Journal of Labour Statistics</i> (Boletín de Estadísticas Laborales, BEL) of the Ministry of Labour and Social Affairs (Ministerio de Trabajo y Asuntos Sociales, MTAS).
FI	NC does not report source, but figures are also endorsed by NC via CIETT.
FR	DARES UNEDIC, Association of Temporary Work Agencies annual economic report. Proportion of workforce, Number of firms: Employer organisation via CIETT.
IE	Employer organisation via CIETT. Official figures do not differentiate between types of temporary employment.
IT	Employer organisation via CIETT.
LU	Inspection Générale de la Sécurité Sociale (IGSS).
NL	Employer organisation (ABU) via NC and CIETT.
NO	Employer organisation (BRF) via NC.
PT	Employer organisation via NC and CIETT.
SE	Employer organisation (Bemanningsföretagen) via NC. Financial data – own calculation; original figure referred to SEK 9 billion (about €963 million).
UK	National centre reports no precise and reliable data. In terms of employee numbers, the official Labour Force Survey has a figure of 264,000 workers in 2004, but is likely to underestimate significantly the extent of TAW employment as the data are based on self-reports (hence, for example, inadequately differentiating self-employment and FTC). Two sets of figures are, therefore, offered for employee numbers: (a) Source, DTI estimate, 2003 reported by Trades Union Congress (TUC) ('The EU temp trade', June 2005); % workforce, own calculations. This broadly conforms to a reported Confederation of British Industry estimate of 770,000 workers for 2002; (b) Source, Employer organisation (REC). However, these figures also include people being recruited on a permanent basis through a TWA. Financial data – own figures (originally GBP 24,514 million – about €35,835 million) obtained from employer organisation (which may have a broader membership than strictly TWAs).

Notes

Percentage figures in column three are rounded.

AT	Average number of TA workers per day. NC employee numbers data presented as if absolute, but this is not certain.
BE	Employee numbers is average number of TA workers supplied per day and is full-time equivalent; absolute number is 429,000 workers (including students).
DE	Employee numbers full-time equivalent, according to CIETT. The indicated proportion of the total workforce (1.2%) refers only to those contracts that are covered by the social security system and pay national insurance contributions. According to the employer organisation (BZA), the figure for the proportion of the total workforce is 0.9%.
DK	Employee numbers refer to full-time equivalents (excluding TAW services not sold on an hourly basis). The total figure for TA employment is 35,230 workers, or 1.2% of the total workforce. For those employed primarily as TA workers, the numbers were 20,341, representing 0.7% of the labour force. All employment figures refer to 2003; financial data from 2000.
EL	Employee numbers refer only to those employed by Adecco Hellas for 2003. The figure for 2004 was 6,060 workers, although this was distorted by the Olympics. For example, the biggest occupational category in 2003 was office staff; in 2004, it was ticket issuing, with language teachers also prominent. Financial data refer to 2000.
ES	Employment figures are for full-time equivalent according to employer organisation (AGETT).
FI	Employee numbers are full-time equivalent; absolute number is 30,000 workers, representing 1.8% of the workforce.
FR	Employer organisation (SETT, via CIETT) reports the employment figures to be full-time equivalent. Absolute numbers are around five times higher.
IE	Number of workers is full-time equivalent and is for 2000.
IT	Employee numbers are full-time equivalent.
LU	Employee numbers are full-time equivalent. 2003 figures. Financial data – approximate figure ‘over the last few years’.
NL	Employee numbers are full-time equivalent. In absolute terms, the average daily number is 209,000 workers and annual TW employee number is 615,000 workers.
NO	Employer organisation via CIETT reports employment figures (which are for 2003) to be full-time equivalents. Financial data – own calculation; original figure referred to NOK 5,327.1 million.
PT	Employee numbers refers to actual numbers placed (benchmarking against data from the official Quadros de Pessoal survey). Employer organisation (APETT) also believes that there are a further 25,000 TA workers placed illegally. Number of companies is for 2005.
SE	It is not clear in the NC report whether employee numbers are absolute or not, but feedback from CIETT implies that they are full-time equivalent.
UK	Figures are interpreted as absolute, but this is not made clear in the reports.

Table 2: Distribution of assignments by sector, EU15 and Norway

AT	In terms of TAW, ‘craft and trade’ refers mainly to construction and electrical engineering. Source: Federal Ministry of Economics and Labour (BMWA).
BE	Data from 2003. Source: IDEA Consult (survey study conducted for FEDERAGON), ‘Les intérimaires et leur emploi en 2003: étude de profil’.

DE	Source: Federal Employment Agency (BA).
DK	Figures represent percentage of turnover, not numbers of assignments. Source: Statistics Denmark and employer organisation (FVD) via CIETT.
ES	Source: <i>Journal of Labour Statistics</i> (BEL). Figures for 'industry' and 'construction' supplied by employer organisation (AGETT).
FI	The biggest users are construction (where TA workers are 7.8% of the workforce); hotels and restaurants (6.9%); transportation support services (4.3%); and metal and electrical industries (3.1%). No source given.
FR	Figures given as full-time equivalent. Car manufacturing reported as a high-level user. Source: Employer organisation (SETT) via NC and (second bullet) CIETT.
IT	Source: Employer organisations via NC.
NL	Source: Employer organisation (ABU) via CIETT.
NO	Source: NC refers only to 'a survey among Norwegian companies' (2003).
PT	Data are for 2003. The proportion accounted for by manufacturing increased from 29% in 1998, mainly at the expense of services for enterprises. Source: NC calculations based on the quarterly Employment Survey (Emprego no Sector Estruturado, OEFP).
SE	Source: Employer organisation (Bemanningsföretagen) via CIETT.
UK	Source: Labour Force Survey – note that data may be limited as a result (see notes to Table 1) – and Employer organisation, which provides a mixed categorisation by sector and occupation. These data are to be published in January 2006.

Table 3: Distribution of assignments by occupation, EU15 and Norway

AT	Source: Federal Ministry of Economics and Labour (BMWA).
BE	Over three-quarters (77%) of male TA workers are blue-collar, compared to 44% of women. Source: Employer organisation (Federgon) via NC.
DE	Source: Federal Employment Agency (BA).
DK	Source: Statistics Denmark and employer organisation (FVD) via CIETT.
EL	Year is 2003 and refers to TA placements of Adecco. Source: Adecco via NC.
ES	Figures are for 2003. Source: Yearbook of Labour Statistics (Anuario de Estadísticas Laborales, AEL). Of the 'low-skilled workers' category, 57% are classified as labourers in mining and manufacturing; 25% as labourers in transport and unloading; 12% as domestic employees and other personnel cleaning interiors of buildings; 3% as agriculture and fishing labourers; 2% as builders' labourers; and 1% as other low-skilled workers in retailing and other services. According to the employer organisation (AGETT), in 2004, 60.5% of TA workers were in low-skilled occupations.
FR	Source: Employer organisation (SETT) via NC.
IT	Figures refer to a Ministry of Labour survey of demand from user firms, not actual placement. Source: Ministry of Labour.
NL	The NC also reports that 34% of TA workers have the temporary job as 'a job on the side'; often because they are students. Source: Employer organisation (ABU) via NC and CIETT.
NO	Data are from 1997. Source: Torp <i>et al</i> (1998) survey of TA workers.
PT	Data are from 2000. Source: National Institute of Employment and Occupational Training (Instituto de Emprego e Formação Profissional, IEFP).
SE	Note that employer organisation (Bemanningsföretagen) reports 22% blue-collar, 78% white-collar (but see also Table 2).

UK Source: Employer organisation (REC). This is preferred to LFS data given reservations concerning accuracy (see note to Table 1).

Table 4: Duration of assignments, EU15 and Norway

AT	Average duration of assignments. Source: BMWA.
BE	Duration of last assignment. Figures for 2003. Source: 'Les intérimaires et leur emploi en 2003: étude de profil', IDEA Consult (study conducted for FEDERGON based on a survey).
DE	Source: Federal Employment Agency (BA), based on 250,000 TA contracts ending in first half of 2004.
ES	Contracts registered in the Public Employment Services by TWAs, by duration of contract. Source: Yearbook of Labour Statistics (Anuario de Estadísticas Laborales, AEL).
FI	Average assignment duration. 2003. No source given. Figures for 'office work' (which includes clerical, book-keeping and IT) from employer organisation via CIETT.
FR	Average length of assignments. Source: Employer organisation (SETT) via NC.
IE	Source: Own data (2003) from NRF. Based on 26 respondents (a further 30 had no figures) to an original sample of 366.
IT	(1) average duration of 'staff leasing contracts'; (2) average duration of 'leasing contract jobs'. Source: Employer organisations via NC.
LU	Average length of assignment. 2001. No source given.
NL	Average length of assignment. Source: Employer organisation (ABU) via CIETT.
NO	Source: Employer organisation (BRF) via NC. A pre-deregulation (1997) survey of TA workers (Torp <i>et al</i> , 1998) found that half of all TA workers (then mainly based in office roles) worked at the client organisation for one year or more, and 6% had been there for over five years. One in 10 ended up employed on a permanent basis.
PT	Average length of assignment. 2000. First figure from an employer organisation (APETT) survey, second from IEFP. Data from the IEFP also indicate that attachment to TWA is for a longer period than particular assignment: 41% of assignments ('temporary work contracts') are for less than three months; 35% are for between three and six months; 18% are for six to 12 months (6% 'n.a.'). However, in terms of 'average time linked to TWA', 16% is less than three months; 26% is three to six months; 51% six to 12 months (8% 'n.a.').
UK	Data refer to how long TA workers had been in current job. Source: Labour Force Survey, 2000. Note also that a survey of 210 companies conducted by the CBI in 2002 revealed that 35% of companies reported that TAW assignments typically lasted for less than six weeks; 65% of companies stated that assignments typically lasted longer than six weeks; and 17% reported that assignments typically last longer than 12 months.

Table 5: TA workforce by sex and age, EU15 and Norway

AT	Source: BMWA.
BE	Age groups are under 26 years and under 31 years. Excludes student summer jobs. Source: Employer organisation (FEDERGON) via NC.
DE	Male proportion has declined from 82% in 1994. Source: Sex – Federal Employment Agency (BA), Arbeitsmarkt in Zahlen – Arbeitnehmerüberlassung 1. Hj. 2004; age (2001 figures) – drawn from a report from the German Institute for Economic Research

- (Deutsches Institut für Wirtschaftsforschung, DIW) in November 2003, based on the German Socio-Economic Panel (SOEP) of 2001.
- EL Last column refers to >40 year age group, not >45. Figures refer to placements by Adecco, 2003.
- ES Figures are for 2003. Source: Age – Yearbook of Labour Statistics (Anuario de Estadísticas Laborales, AEL); sex – employer organisation (AGETT) via CIETT.
- FR Source: Employer organisation (SETT) via NC.
- IT Ministry of Labour survey of 2,336 people; the employer organisation gives a lower figure for women.
- LU Male proportion up from 74% in 1999. No source provided.
- NL Source: Employer organisation (ABU) via NC.
- NO Proportion of women has declined since deregulation, from around 75% in the early 1990s. No source given.
- PT Last column refers to >40 year age group, not >45. Source: Sex – Ministry of Labour figures, 2003 (QP and Inquérito ao Emprego), note that employer organisation has the figures reversed; age – 2002 figures, from the official company survey (Quadros de Pessoal, QP). The proportion of TA workers under 25 years declined from 35% in 1998, when it amounted to twice the proportion in the labour force as a whole, to 29% in 2004.
- SE 41% are aged over 35 years. Source: EO (Bemanningsföretagen) via CIETT.
- UK The sex ratio is unchanged from 2000. Source: Labour Force Survey.

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Temporary agency work is an important and rapidly expanding form of employment throughout the European Union. Its regulation continues to be a contentious issue, as the demands of employment creation and flexibility need to be balanced with employment protection and security for workers. This report, based on findings from a comprehensive survey carried out by the European Industrial Relations Observatory, presents an overview of the situation in 28 countries – the 25 EU Member States, Norway and the acceding countries of Bulgaria and Romania. It explores a range of issues including the definition and extent of temporary agency work, its regulation in the different countries, both by law and collective agreement, and the views of the social partners on developments in the sector. Despite differences in the type of regulatory approach, it finds a surprising degree of similarity between the former 15 ‘old’ Member States and the 10 new Member States – although the absence of sector-level bargaining in the latter group of countries is a significant distinguishing feature.

The European Foundation for the Improvement of Living and Working Conditions is a tripartite EU body, whose role is to provide key actors in social policymaking with findings, knowledge and advice drawn from comparative research. The Foundation was established in 1975 by Council Regulation EEC No. 1365/75 of 26 May 1975.



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