

UNIVERSITÉ CATHOLIQUE DE LOUVAIN

Institut des sciences du travail



**INSTITUTIONAL REPRESENTATIVENESS OF TRADE UNIONS AND EMPLOYERS' ORGANISATIONS IN THE  
TEMPORARY AGENCY WORK SECTOR**

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## Abbreviations

- AWM: Federation of the medium-sized service sector (Aktionsgemeinschaft Wirtschaftlicher Mittelstand)
- AWVN: General Employers' Association Netherlands (Algemene WerkgeversVereniging Nederland)
- BDA: Confederation of German Employers' Associations
- BIAC: Business and Industry Advisory Committee to the OECD
- BPV: Federal Association for Recruitment Agencies
- CCP: Confederation of Commerce and Services of Portugal (Confederação do Comércio e Serviços de Portugal)
- CEOE: Spanish Confederations of Employers' Organisations
- CEPYME: Spanish Confederation of Small and Medium-sized Enterprises
- CESI: European Confederation of Independent Trade Unions
- CGIL: General Confederation of Italian Workers
- CGPME: General Confederation of Small and Medium-sized Enterprises (Confédération Générale des Petites et Moyennes Entreprises)
- CIETT: International Confederation of Temporary Work Businesses
- CISL: Italian Confederation of Workers' Unions
- CFDT: French Democratic Workers' Confederation (Confédération française démocratique du travail)
- CFTC: French Confederation of Christian Workers (Confédération Française des Travailleurs Chrétiens)
- CGT: French Workers' Confederation (Confédération Française du Travail)
- CGTP-IN: General Confederation of Portuguese Workers (Confederação Geral dos Trabalhadores Portugueses)
- DA: Danish Employers' Confederation (Dansk Arbejdsgiver forening)
- DGVM: German Society for Association Management
- EFATT: European Federation of Trade Unions in the Food, Agriculture and Tourism Sectors

EFBWW: European Federation of Building and Woodworkers  
EFFAT: European Federation of Food, Agriculture and Tourism Trade Unions  
EFJ: European Federation of Journalists  
EI: Education International  
EMCEF: European Mine, Chemical and Energy Workers' Federation  
EMF: European Metalworkers' Federation  
EPSU: European Federation of Public Service Unions  
ETF: European Transport Workers' Federation  
ETUC: European Trade Union Confederation  
ETWU: European Transport Workers Union  
EUROCOP: European Confederation of Police  
FEB/VBO: Belgian Federation of Employers (Fédération des entreprises de Belgique)  
FEDIL: Federation of Luxembourg Industrialists (Fédération des industriels luxembourgeois)  
FETESE: Federation of Trade Unions of Service Workers and Others (Federação dos Sindicatos dos Trabalhadores de Serviços e Outros)  
FIM: International Federation of Musicians  
FNV: Confederation of Dutch Unions (Federatie Nederlandse Vakbeweging)  
FTF: Confederation of Salaried Employees and Civil Servants (Funktionærernes og Tjenestemændenes Fællesråd)  
HOTREC: International Hotel and Restaurant Association  
IBEC: Irish Business Employers' Confederation  
ICEM: International Federation of Chemical Energy, Mine & General Workers' Unions  
ICFTU: International Confederation of Free Trade Unions  
ICTU: Irish Congress of Trade Unions  
IFBWW: International Federation of Building and Woodworkers  
IFJ: International Federation of Journalists

IMF: International Metalworkers' Federation  
IOE: International Organisation of Employers  
ITF: International Transport Workers' Federation  
IUF: International Union of Food Agricultural, Hotel, Restaurant, Catering, Tobacco & Allied Workers' Associations  
IVV: International Confederation of Free Trade Unions (Internationaal Verbond van Vrije Vakverenigingen)  
LCGB: Luxembourg Confederation of Christian Trade Unions (Confédération luxembourgeoise des syndicats chrétiens)  
LO: Swedish Trade Union Confederation (Landsorganisation Sverige)  
LO: Danish Confederation of Trade Unions  
MEDEF: The Movement for French Industry (Mouvement des entreprises de France)  
MHP: Union for Middle-range and Higher Personnel (Vakcentrale voor Middengroepen en Hoger Personeel)  
MKB: Employers' Association for Small- and Medium-sized Enterprises (Midden en Klein Bedrijf)  
NFS: Council of Nordic Trade Unions  
NMU: Nordic Musicians' Union  
NTF: Nordic Transport Federation  
OGB-L: Independent Trade Union Confederation of Luxembourg (Confédération syndicale indépendante du Luxembourg)  
PSI: Public Service International  
PT: Employers' Confederation of Service Industries  
SACO: Confédération des travailleurs intellectuels (Sverige Akadamiker Centralorganisation)  
SAK: Central Organisation of Finnish Trade Unions  
SGUW: The Association Against Unfair Competition (Schutzverband gegen unlauteren Wettbewerb)  
STTK: The Finnish Confederation of Salaried Employees  
TCO: General Confederation of Civil Servants and Employees (Tjänstemännens Centralorganisation)  
TT: Confederation of Finnish Industry  
TUC: Trades Union Congress

UGC: General Consumers' Trade Union (União Geral de Consumidores)

UGT: General Workers' Trade Union (União Geral de Trabalhadores)

UIL: Union of Italian Workers

ULEDI: Luxembourg Union of Temporary-Employment Enterprises (Union luxembourgeoise des entreprises de travail intérimaire)

UNI: Union Network International

UNI- Europa (IBITS): Union Network International – Europa (Industry, Business, Information Technology, Services Branch)

UNICE: Union of Industrial and Employers' Confederation of Europe

UVG: Employers' Association Group

VBG: Administrative Professional Association

VDSG: Association for Occupational Safety

VNO-NCW: Association of Dutch Companies-Dutch Christian Employers' Association (Vereniging Nederlandse Ondernemingen-Nederlandse Christelijke Werkgeversorganisatie)

WAI: World Association of Industry Workers

WBA: World Association of White-collar Workers

WCL: World Confederation of Labour



# INTRODUCTION

This report was drawn up within the framework of a study on the institutional representativeness of social partners in EU15 and on the situation of trade unions and employers' organisations in the new Member States and candidate countries. The study was carried out by the Labour Science Institute of the Catholic University of Louvain (Institut des Sciences du Travail de l'Université catholique de Louvain, IST) at the request of the European Commission's DG Employment and Social Affairs (Call for tenders No. VT/2002/83).

This report aims to examine the process of social dialogue and the representativeness of the social partners participating in that dialogue in the temporary agency work sector in countries of EU15. This study focuses on social dialogue and organisations in member countries of the European Union before 1 May 2004.

## Context of the study

This study takes place in the context of the European Commission's promotion of social dialogue at Community level.

The question of the representativeness of European organisations emerged in the framework of the promotion of social dialogue at Community level. In a Communication published in 1993<sup>1</sup>, the European Commission set out three criteria determining the access that employers' and workers' organisations had to the consultation process under Article 3 of the Agreement on Social Policy. According to the terms of this Communication, the organisation must "(1) be cross-industry or relate to specific sectors or categories and be organised at European level; (2) consist of organisations which are themselves part of Member States' social partner structures and with the capacity to negotiate agreements, and which are representative of all Member States, as far as possible; (3) have adequate resources to ensure their effective participation in the consultation process". In 1996, the Commission adopted a consultation document<sup>2</sup> so as to launch as wide as possible a debate in order to find ways of promoting and strengthening European social dialogue. As the social partners at European level were, and still are, in the process of restructuring and accepting new members, the Commission launched a study at that point on the representativeness of interprofessional and sectoral organisations in the European Union. In a new Communication published in 1998<sup>3</sup>, the European Commission set out the means it intended to use to adapt and promote social dialogue at European level. On that occasion, it specifically reasserted the three criteria laid down in the 1993 Communication for European organisations to be recognised as representative in terms of the consultation process under Article 3 of the Agreement on Social Policy. The organisations must "(1) be related to specific sectors or categories and organised at European level; (2) consist of organisations which are themselves an integral and recognised part of Member States' social partner structures and with the capacity to negotiate agreements, and which are representative of several Member States; (3) have adequate resources to ensure their effective participation in the consultation process". Lastly, in 2002 the European Commission reasserted its commitment to reinforcing the European social dialogue in its Communication "The European social dialogue, a force for innovation and change"<sup>4</sup>. In respect of the three criteria set up by the Commission, as previous studies<sup>5</sup> have observed, the changes focus on the disappearance of demands relating

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<sup>1</sup> COM(93) 600 final of 14 December 1993, Communication from the Commission concerning *the application of the Protocol on Social Policy*.

<sup>2</sup> COM(96) 448 final of 18 September 1996, Communication from the Commission on *the development of social dialogue at Community level*.

<sup>3</sup> COM(98) 322 final of 20 May 1998, Communication from the Commission on *adapting and promoting the social dialogue at Community level*.

<sup>4</sup> COM(2002) 341 final of 26 June 2002, Communication from the Commission: *The European social dialogue, a force for innovation and change* (summary).

<sup>5</sup> Spineux A., Walthery P. et al., *Report on the representativeness of European social partners organisations*, Report coordinated by the Institut des Sciences du Travail of the Université catholique de Louvain, for the European Commission, Directorate General for Employment, Industrial Relations and Social Affairs, Louvain-la-Neuve, 1998.

to the intersectoral nature of organisations and on the fact that they are established in all Member States; the new rules have not been formulated in a very restrictive manner, and only require employers' and workers' organisations to represent "several" Member States. This relaxation of the implementation condition might pose a demarcation problem in the sense that there is no criterion setting out a minimum number of Member States to activate it.

Against this background, it is clear that two of the main issues for the Commission at the moment are the enlargement of the European Union and its impact on the process of social dialogue at Community level. The development of social dialogue has therefore formed part of the *acquis communautaire*: "The Treaty requires that social dialogue be promoted and gives additional powers to the social partners. The candidate countries are, therefore, invited to confirm that social dialogue is accorded the importance required and that the social partners are sufficiently developed in order to discharge their responsibilities at EU and national level, and to indicate whether they are consulted on legislative drafts relating to the taking over of the employment and social policy acquis... Therefore, the development not only of tripartite structures but also of autonomous, representative bipartite social dialogue is an important aspect for the future involvement of the candidate countries' social partners in the social dialogue activities developed at European and national level."<sup>6</sup> Enlargement will have consequences for social dialogue both at intersectoral and at sectoral level; in particular, it will have consequences for the European social partners and for their institutional representativeness. No reference has been in this study either to social dialogue or to employers' organisations and trade unions in the new Member States (or the candidate countries). The question of the representativeness of European organisations is consequently limited to the 15 Member States of the European Union before the 1 May 2004 enlargement.

## Research approach and comments on methodology

For the purposes of this study, a network was set up of university researchers in all 15 European Union Member States. These researchers are independent both of the European Commission and of employers' and workers' organisations. Each researcher was charged with drawing up a report based on a common template, and a questionnaire tailored to the specific realities of the public sector was elaborated to that effect (see Annex). The IST took charge of coordinating the study and producing the summaries. The IST wishes to stress its independence in respect of the political consequences and of decisions that may be made on the basis of this study.

In its design, the research process comprised a phase of collecting quantitative and qualitative data not only on the players and on the social dialogue in which they participate, but also on an active approach embracing the building of a consensus, which is an integral part of the process of social dialogue itself. Thus, whereas in a good number of cases, the data collected do not permit total objectification of the role played by the organisations, the contacts made in the course of data collection and during discussions with the various players concerned are seen as an "integral part of a process of mutual recognition"<sup>7</sup>. The main sources used within the framework of this study were thus the social players themselves.

As regards delimitation of the scope of the study, the main criterion defined *a priori* with a view to determining the organisations to be taken into account was their role in sectoral collective bargaining processes.

The interviews with the organisations and the drafting of the national reports took place during April-May 2004. It is worth re-stating that this study should be seen as a snapshot: indeed, as the national reports will demonstrate, the temporary agency work sector is one that has had to undergo many changes during the last few years.

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<sup>6</sup> *Enlargement of the European Union. Guide to the negotiations. Chapter by chapter*, European Commission, DG Enlargement, June 2003.

<sup>7</sup> *Reply to Call for Tenders VT/2002/83. Studies on the representativeness of the social partners at sectoral level in the European Union and monographs on the situation of the social partners in the candidate countries*, Institut des Sciences du Travail, UCL, 2002.

## The national summary reports

The national summary reports contained in this report present the situation in the 15 European Union Member States under the following headings:

- delimitation of the range of activities included in the temporary agency work sector (for each country);
- description of the general characteristics of the sector (employment and enterprises);
- overview of social dialogue at sectoral level (structures, collective agreements, principal topics of negotiation, and players);
- description of the trade union organisations and employers' organisations that operate in social dialogue in the temporary agency work sector (representativeness and recognition of the organisations, participation in collective bargaining, and national, European and international affiliations).

# THE TEMPORARY AGENCY WORK SECTOR IN EU15

## Definition and delimitation of the sector

A definition of temporary agency work is "one whereby the temporary agency worker is employed by the temporary work agency, and is then, via a commercial contract, hired out to perform work assignments at the user firm. This definition is a workable definition of agency work in all Members States with the exception of Ireland and UK where the contractual status of agency workers is often unclear"<sup>8</sup>.

Legislation in some countries like Belgium, France and Luxembourg identifies situations in which a temporary worker may be used, and also specifies cases where such employment is banned; other countries simply refer to activities and/or situations in which the use of temporary workers is banned (usually by law, but sometimes also, as in Belgium, under the terms of collective agreements): the most common example of this is an enterprise on strike. It is worth noting that on 8 October 2001, Euro-CIETT signed a Joint Declaration with UNI-Europa whereby employment agencies may not make workers available to a user enterprise to replace workers of that enterprise who are on strike.

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<sup>8</sup> Source: Donald STORRIE (2002) *Temporary agency work in the European Union*, Dublin: European Foundation for the Improvement of Living and Working Conditions, p. 1.

Country	Forbidding to use of TAW <sup>9</sup>
Austria	The law prohibits non-permanent contracts in contractual relationships between the lessor and the temporary worker, excludes certain kinds of work from the definition of hiring-out (e.g. moving an employee from one subsidiary to another within a group), and bans hiring-out in certain sectors (i.e. the public sector, agriculture and forestry): it includes special provisions pertaining to the latter two sectors, but there are no hiring-out regulations referring specifically to the public sector. The law prohibits hiring-out in certain circumstances, for example when an industrial dispute is taking place in an enterprise. There are also company agreements limiting the use of TAW to 10%.
Belgium	The law stipulates that user firms may only avail themselves of temporary agency work in three settings: as a replacement for permanent workers, during temporary and exceptional peaks of work, and for the performance of unusual work. Moreover, by law or under the terms of a collective agreement, temporary agency work is banned, for example, in the public sector to replace civil servants in certain circumstances, in work involving the use of explosives, in the employment of the works doctor, or in case of a strike or lock-out.
Denmark	There are no restrictions.
Finland	There are no restrictions.
France	The law refers to three broad cases of temporary work: as a replacement of absent employees, during temporary peaks in an enterprise's activity, and for the performance of temporary duties that are inherently temporary. The use of TAW is banned by law for the replacement of striking workers or a medical adviser, for the performance of particularly dangerous tasks, and during the six months following redundancy if the use of temporary work is triggered by a temporary increase in activity.
Germany	Temporary agency employment is allowed in all sectors except in the construction industry (this exception was laid down by the Federal Constitutional Court). There are no situations or cases in which TAW is outlawed.
Greece	Public sector jobs are excluded as the recruitment procedure there is ruled by special legislation, and user companies cannot employ a worker recruited by a TWA to replace regular personnel that are on strike, or if the company has collectively dismissed workers with the same qualifications in the previous year.
Ireland	There are no restrictions.
Italy	The law states that TWAs may be used to replace absent workers, to perform interim tasks that cannot be performed by the user firm's permanent workforce, and to provide skills not available within the user firm during periods of peak activity, and in other circumstances established by sectoral collective bargaining. In addition, TAWs may not be used to replace workers on strike, to carry out dangerous jobs, and in firms that have laid off workers during the previous 12 months.

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<sup>9</sup> Sources: National reports and Annex II of the CIETT document.

<b>Luxembourg</b>	The use of TAWs is permitted as follows: to replace an employee who is temporarily absent from work, or whose contract of employment has been suspended; in seasonal employment; in jobs in certain sectors of activity for which it is normal not to use contracts of indefinite duration; in the performance of occasional, once-and-for-all tasks that do not come within the framework of the enterprise's current activity; during exceptional peaks of work; and to carry out urgent work for the prevention of accidents and the integration of job-seekers. It is forbidden to use TAWs to do work linked to the user enterprise's normal, permanent activity on a permanent basis.
<b>The Netherlands</b>	The law prohibits the lending out of personnel to a firm where there is a strike or a lock-out, and in the sea-going sector.
<b>Portugal</b>	The law bans the use of TAWs to perform tasks that are particularly dangerous to their safety or health.
<b>Spain</b>	The law excludes the use of TAWs to replace workers on strike in the user enterprise, to perform tasks and activities that are especially hazardous to workers' safety and health, to replace jobs that have been eliminated by the user enterprise during the previous 12 months, and to provide other TWAs with temporary workers. The Contracts of Employment Act (LCT) also prohibits public administrations from being contracted users of TWAs except for surveys, data collection and similar services. The construction sector cannot use TAWs at all.
<b>Sweden</b>	There are no restrictions, but there are Swedish national labour market board restrictions whereby a temporary agency worker that has part-time employment in a TWA enterprise does not qualify for compensation from the national unemployment fund for the period when he/she is not employed. All other part-time employees in Sweden have that right.
<b>United Kingdom</b>	There are no restrictions, but electrical contracting does not use TAWs.

The statistics and activities for the sector are sometimes (e.g. in Ireland) incorporated into a larger sector, that of private recruitment agencies. TWAs focus their activities not only on the placement of workers but also on the insertion of target groups: for example, in France, the state concludes special agreements with temporary work agencies, and in the Netherlands, about 175,000 people from target groups are covered by the sector; it sometimes happens, for instance in Italy, that private agencies are believed to be more efficient than public placement agencies.

All countries have liberalised the sector with regard to the establishment of temporary agencies within their territory, but that is not to say that the market is regulation-free: in practice, either the market is self-regulated, or, as in Italy, Greece, Luxembourg and Ireland, there is legislation that imposes minimum conditions through the awarding of licences. Where there is self-regulation, but no laws regulating access to the market, for example in Finland and the Netherlands, employers' organisations sometimes compel their members to comply with certain economic, or practical and ethical, criteria.

## Socio-economic features of the sector

Currently<sup>10</sup>, over 7 million workers are employed by the agency work industry in EU countries alone; a daily average of 2.8 million workers (1.9% of the EU working population) worked through agencies in 2002. Agency work participation in the labour market varies significantly from one Member State to the next, depending on the legal approach to agency adopted. Percentages of workers employed through agency work range from 4.5% in the Netherlands, 3.2% in the UK and 2.5% in France to 0.7% in Spain and an even smaller percentage in Italy, where the industry was legalised in 1998. Between 1990 and 2000, the daily average number of temporary agency workers rose by an average of over 9% per year, more than doubling in total<sup>11</sup>. Independent analysts predict that given the right legal framework, this trend is likely to continue. The sector is strongly influenced by the general economic situation: in 2002, for example, a slowdown led to a reduction in the number of temporary agency workers in France, Italy, Denmark and Luxembourg.

Looking at the different kinds of temporary work agency, turnover is usually dominated by large enterprises, and often by multinationals (e.g. 70% of market share in France, 90% in Sweden and 60% in Spain). This is not to say that some small enterprises (e.g. in Italy) are unable to exploit a specific segment of the market, for example, in geographical terms.

The general profile of temporary agency workers in most countries is of people aged under 30 years who are unskilled and blue-collar. The gender distribution is more or less balanced in Spain, for example, but not in some other countries such as France, Luxembourg and Germany, where men account for a large proportion. By contrast, 60% of temporary agency workers in Sweden are women.

Contracts are mostly temporary, but some countries like Greece and Italy go in for unlimited duration contracts, although it is not common even there. In Sweden, temporary agency workers qualify for permanent employment in TWA-enterprises after six months whether they are on assignment or not; they also receive a salary during the trial period (i.e. the first six months). At least 10% of temporary agency workers in the Netherlands have unlimited time contracts.

With regard to user firms, as the table below shows where data are available, a large number of clients are small and medium-sized enterprises. The best represented sectors of activity are industry and services.

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<sup>10</sup> Source: Euro-CIETT

<sup>11</sup> According to CIETT

Country	Type of user firm – main sectors of activity <sup>12</sup>
Austria	No data.
Belgium	Majority of small and medium-sized enterprises mainly active in industry (49.3%) and services (35.3%).
Denmark	No data. In healthcare, production/storage/chauffeurs and administration.
Finland	No data. In office, accounting and information technology services (43%) followed by sales and restaurant work.
France	No data. In industry (49%), construction (17%) and services (13%).
Germany	Only 6% of all small firms (fewer than 10 workers), but in 39.8% of all large firms (more than 1,000 workers) in western Germany and 22.2% in eastern Germany use temporary agency workers: unskilled labour activities without any specified occupation or task (31.6%), mechanics (16.7%) and office and administrative personnel (9.4%).
Greece	No data. In the rural sector, followed by the service industry, trade and manufacturing.
Ireland	No data.
Italy	Most user firms are medium-sized, although the percentage of smaller companies is growing. Mainly in industry (engineering), then trade and services.
Luxembourg	No data. The construction sector employs most temporary-employment agency workers (25% on average since 1999); next come the hotels, restaurants and café and financial intermediation sectors
Netherlands	Industry (30%); services to businesses (18%); public administration and social security (15%); trade, repair, and consumer businesses (12%); healthcare and social services (12%); transport and logistics (10%).
Portugal	Well established in small and medium-sized enterprises: construction, hotels, clothing, shoes, foodstuffs, wood, cork and furniture.
Spain	Most user-enterprises are medium-sized and large: services (57%), industry (35%) and agriculture (5-6%).
Sweden	No data. In administration and management (50%), industry and inventory maintenance (25%), healthcare (5%) and others (20%).
United Kingdom	

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<sup>12</sup> Sources: National reports



## Social dialogue and social legislation

The development of social dialogue specific to the temporary agency work sector varies considerably from one country to the next: in Greece and Portugal, it is poorly developed, not to say non-existent; in Ireland and the UK, there is no organised “social dialogue” in the sector in the continental European sense; in Austria (for blue-collar workers), Belgium, Italy, France, Germany, Luxembourg, the Netherlands and Sweden, the social partners conclude collective agreements that deal exclusively with the sector; and in other countries, apart from specific collective agreements, general agreements include provisions for temporary agency workers (e.g. in Denmark and Austria for white-collar workers); in Ireland, temporary agency workers do not have specific collective agreements, but temporary agency workers are named or included in, or added to, agreements instead; in some countries such as Belgium and Spain, complementary legal provisions are set out in labour law together with collective agreements; and finally, in some other countries like Finland, there is have social legislation dealing specifically with temporary agency workers (TAWs), although they do have collective agreements covering the sector. In general terms, “[g]iven that agency workers (and perhaps also their firms) are difficult to organise, the sector is new to many countries; and there is potential for rivalry between the agency and workers at the user firm; one might expect collective bargaining would be relatively undeveloped... However, there are exceptions [like] Sweden... [and] the Netherlands.”<sup>13</sup>

In the absence of legislation or specific collective agreements, it is normal for the principle of equal treatment to be universally applied, that is to say TAWs come under the same law or collectively agreed regulation as all other workers. Temporary agency workers must therefore be able to obtain the same conditions as workers in the user-company for the same kind of work. The reference point is the collective agreement(s) in force in the user-company, and then, depending on the country, as indicated above, special collective agreements are signed between the social partners with a view to complementing, and adapting to, the objective features of temporary agency work.

As for the coverage rate of sectoral collective agreements, there is usually (e.g. in Italy and in Luxembourg, where the *erga omnes* principle applies) no departure from the general extension principles in force. The rate is quite high in Sweden (80%) because large enterprises are affiliated to the sector's representative employers' organisation. The same situation is to be found in Denmark, where over 80% of workers are covered by collective agreements, and TAWs are not excluded. In the Netherlands, despite a relatively low rate of unionisation, the high rate of coverage (80%) is explained by a powerful employers' organisation coupled with the option open to the government to extend collective agreements. In Luxembourg, the rate is 100%, and Belgium, Germany and France are approaching that figure fast.

Collective bargaining and collective agreements deal with a large number of issues, and each country focuses discussion on its own distinctive features, and on the degree of social protection offered to TAWs.

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<sup>13</sup> Source: Donald STORRIE (2002) *Temporary agency work in the European Union*, Dublin: European Foundation for the Improvement of Living and Working Conditions.

Country	Social dialogue and collective agreements <sup>14</sup>
Austria	TAWs are covered by the user firms' collective agreements, but the Labour Constitution Act applies a "no worsening" principle: in practical terms, this means that if the collective agreement covering the user firm is less favourable to TAWs, the collective agreement directly binding the TWA becomes valid even during periods of hiring-out. Blue-collar workers have a collective agreement that is specific to the sector and includes an actual pay-clause, whereas the most important bargaining objective for white-collar workers is that their salary agreement too should include an actual-pay clause.
Belgium	The same treatment with regard to terms and conditions of employment and all supplementary payments are agreed at enterprise level, as they are for other workers in the user firm doing comparable work. There are also specific sectoral negotiations and agreements on such matters as training, mobility and safety.
Denmark	TAWs are protected by law at the same level as other employees, and in some cases, as long as the job exceeds eight hours a week. There is an important exception, though: TAWs are not covered by the legislation protecting salaried employees (white-collar workers) despite the fact that this type of work is typical TAW employment. The general agreements emphasise that wages and working conditions follow those applied as a minimum by the user company, whereas social issues (e.g. pensions) are covered by the temporary work agency, which is deemed to be the employer. A protocol is also added to general agreements, and specific collective agreements covering such matters as pay, working hours and pension contributions have also been developed.
Finland	Agency work must comply with mainstream labour law, and the TWA is obliged to apply the collective agreement at the user company to TAWs (the principle of equal treatment) but this does not mean that the level is as high as it is for the permanent workers, although it is as high as the level for TAWs in the sector. There are also specific collective agreements covering such issues as wages, maternity leave and employment security.
France	The law focuses on equal treatment, safety under common law provisions, and the principle of equal treatment. TAWs have their own collective agreements (covering issues like overtime, flexible working hours, vocational training and time-credit schemes), which basically consist of a series of sectoral collective agreements, and are handled by temporary agency worker representatives within the TWA and the temporary agency work branch (i.e. the branch that is the level where nearly all agreements concerning TAWs are signed).
Germany	Legislation seeks to guarantee the principle of equal pay and equal treatment. There is bipartite and centralised collective bargaining, and six sectoral collective agreements and some company agreements. Features specific to the sector include payments for employees who have to travel more than 1.5 hours to the user firm, and different wages paid if the worker is "free" (i.e. s/he is not in a user firm, but is still employed by the TWA).
Greece	With regard to wages, the remuneration of TAWs cannot be lower than the basic rates laid down in the sectoral occupational agreement, or else in the agreement that applies to staff normally working in user firms. There is no specific collective agreement in the sector, and social dialogue is very limited.
Ireland	There is no specific labour legislation covering TAWs. The sector is primarily regulated by voluntary agreements, which do not have the same force of law as in other EU countries. TAWs do not have specific collective agreements, but are named or included in, or added to, agreements. Tripartite dialogue on centralised collective

<sup>14</sup> The term "sectoral agreement" should be understood as applying to all temporary agency workers, irrespective of the sectors of activities where they are working. In a sense, it is a kind of "interprofessional" or "national" agreement. Sources: National reports

	bargaining is well established.
<b>Italy</b>	A specific interprofessional agreement, which complements the legislation and is subsidiary to sectoral bargaining, provides minimum standards on pay and defines the specific terms of the employment of TAWs through national industry-wide agreements. There are therefore no real differences in term of wages and working conditions between TAWs and salaried workers doing similar work, although there are significant sector-by-sector differences between TAWs themselves.
<b>Luxembourg</b>	The principle of equal treatment applies. There is also a specific sectoral agreement covering such matters as training and occupational health and safety.
<b>The Netherlands</b>	The law states that TAWs shall receive the same remuneration as workers employed by the hiring firm, unless the law or collective agreement specify otherwise. Conditions are mainly regulated by specific sectoral collective agreements (rights in the case of illness and disability or the absence of work, pension arrangements, and the period of notice before terminating the contract).
<b>Portugal</b>	The sector and working conditions are mainly regulated by law. Collective bargaining deals with issues such as salary scales, meals subsidies and occupational health and safety. There is one specific sectoral collective agreement.
<b>Spain</b>	The law and the national collective agreement for TAWs contain the principle of equal treatment. It follows that temporary agency workers' conditions of employment are regulated by the user company's collective agreement. There is an increasing tendency for a large number of collective agreements in many sectors of activity to include guarantee clauses for workers provided by a TWA.
<b>Sweden</b>	There is no specific labour regulation for TAWs. There are two specific sectoral collective agreements (one for white-collar workers and the other for the blue-collar workers): the main bargaining issues are salary levels, particularly the reference salary, and the compensatory salary level when employees are not on assignments.
<b>United Kingdom</b>	There is no specific legislation concerning the working conditions of TAWs. Social dialogue in the sector is poorly developed: there is no industry-wide bargaining in the sector except in the construction and contracting industries.

Depending on the national situation, it is possible to identify important issues for discussion and negotiation between the social partners. These include the calculation of seniority (e.g. in Denmark and France); maternity leave combined with short periods of employment (Finland); discrimination against workforce delegates (France); the desired duration of a temporary contract, and the extent of restrictions imposed by legislation on temporary agency work (Greece); problems concerning the entitlement and disentanglement to social security services, and the setting up of a sectoral fund to manage such matters as end-of-year bonuses and actions linked to training and safety (Luxembourg); interpretation of the law and compliance with it (e.g. disagreements over compliance relating to working hours, holiday pay, pay on national holidays, and payments due when the contract terminates) (Portugal); the elimination of statutory limitations, restrictions and added costs laid down by current legislation on security and quality of contracts, professional development policies and wage policies (Spain); the determination of hourly wages and pay (Germany); and the European Directive on temporary agency work (Ireland).

However, notwithstanding points of friction, the industrial relations climate is generally deemed to be relatively constructive and positive, which is not to say that there have been no disagreements: for example, in Italy, the climate is described as positive with very good relations between the social partners (consolidation of social dialogue); in Luxembourg, the two partners draw attention to the high quality of social dialogue; in Finland, no disputes are likely to take place between the social partners in the coming years, and the climate has even

improved; and in France, social dialogue is considered to be constructive, despite the fact that some trade unions, for example, are afraid that collective bargaining is focusing increasingly on certain less important issues in the sector.

This relatively peaceful social climate does not mean that some countries are not facing some very serious obstacles in terms of the development of social dialogue. In Portugal, for example, according to the social partners in the sector, the main obstacle is the fact that work is so precarious, and that representativeness is weak as a result. They also say that the employers themselves have weak structures, and that there should be an interlocutor who represents all temporary agency work enterprises so that collective bargaining can be more effective. And in Germany, the main obstacles to the development of the sector's newly established social dialogue are firstly the fact that employers' organisations fear a loss of competitiveness if the sector becomes highly regulated by collective agreements and laws, and secondly that trade union attitudes towards temporary agency work used to be rather negative because work conditions and pay were worse than for regularly employed workers; it has not been possible to eliminate this situation through recent agreements.

## Social dialogue at European level

Euro-CIETT and UNI-Europa jointly form the Social Dialogue Committee for the temporary agency work sector. Since the Committee was established, social partners in the temporary agency work sector have concluded Joint Declarations on the Social Dialogue on Agency Work (2000) and on the Objectives of the European Directive on Private Agency Work (2001). The Social Dialogue Committee is currently working on a training project that will examine the reintegration into the labour market of "difficult categories of workers" (training of outsiders) and the role that agencies play in this area. According to the OECD definition, the notion of "difficult categories of workers" encompasses people like older and younger workers, disabled workers, ethnic minorities and women.

"The social partners at EU level [UNICE and ETUC] have already concluded framework agreements on part-time work, and fixed-term contract work, which have been implemented through Council directives, but not on temporary agency work. Negotiations on temporary agency work failed in May 2001, but only after one year of discussion by social partners. It is thus clear that the social partners were both genuinely looking for an agreement and believed that agreement might be possible until negotiations ended. As the social partners failed to agree under the procedure provided for in Article 138 of the EC Treaty, the Commission had to take the political decision whether or not to table a draft proposal for a directive. The legal basis for the draft directive is Article 137(2) of the EC Treaty (on the basis of the reference in Article 137(1) to improvement of 'working conditions')"<sup>15</sup>.

In March 2002, the Commission accordingly proposed that temporary agency workers and other staff doing the same job in a user company should, in principle, be given equal treatment (including pay), but in 2003, this key Directive giving minimum protection to temporary agency workers (and at the same time, opening up the sector in those countries with restrictions on the use of temporary workers in order to create jobs) failed to be adopted by the Council. The main obstacles to agreement were:

- The length of a "grace period" during which the principle of equal treatment of temporary agency workers (on the question of pay) would not apply: the Commission proposed six weeks in order to avoid excessive bureaucracy for the shortest temporary contracts, but the Parliament and a majority of Member States are calling for equal treatment (also including pay) to apply from the first day of the first temporary contract. A minority of Member States are seeking a considerably longer period of grace.

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<sup>15</sup> The European Commission (Employment and social affairs), March 2002 ([http://europa.eu.int/comm/employment\\_social/news/2002/mar/062\\_en.html](http://europa.eu.int/comm/employment_social/news/2002/mar/062_en.html))

- The “hardness” of the Member States’ promise to open up their restrictions on the use of temporary agency workers: the Commission had suggested re-examining restrictions on the use of temporary agency workers, with a view to eliminating them where they are not objectively justified, but a number of Member States are still reluctant to accept a “hard” promise to look again at such restrictions.<sup>16</sup>

## European employers’ and employees’ organisations and their affiliates

### The (Euro-)International Confederation of Temporary Work Businesses (Euro-(CIETT))

CIETT (International Confederation of Temporary Work Businesses) was founded on 17 May 1967 in Paris and is funded exclusively through members’ contributions. It brings together the national federations of employment businesses in 30 countries and six of the largest companies world-wide. CIETT membership is open to national associations of agency work and to individual companies that meet certain criteria, notably membership of at least five CIETT national federations. CIETT does not restrict its activities to those countries where employment agencies are organised in a national federation. In countries where such federations do not exist, individual companies may apply for associate membership; like full members, associate members must comply with the CIETT Code of Practice.

Euro-CIETT is a CIETT Committee. It is made up of CIETT Council Members from European Union, European Economic Area and EFTA countries. Euro-CIETT is actively involved in European legislation and policy, and oversees all CIETT contributions to the European debate on employment and other policy areas that may impact on the industry. Euro-CIETT is recognised as the Social Partner for the temporary agency work sector by the European Commission within the framework of the European Social Dialogue. The Euro-CIETT Committee is made up of all Euro-CIETT members. Each member has one vote, and decisions are formally reached unanimously and/or by a qualified majority, depending on the nature of the issue, although Euro-CIETT works by consensus.

The main CIETT and Euro-CIETT objective is to seek greater recognition for the contribution that agency work makes to labour markets. To this end, they seek to:

- stimulate the formation of federations in countries where no such federation exists;
- facilitate the exchange, centralisation and distribution of information and literature of direct or indirect interest to agency work for the benefit of members, and for the information of the public, official bodies, social partners, the media, and other interested parties;
- engage in negotiations on agency work with international institutions and organisations, and with national governments or official national organisations, at the request of, and in co-operation with, its member federations;
- enhance the prestige of the profession to ensure a permanent place for it in society, to support the efforts of its members in any action designed to protect the interests of agency workers, and to work towards harmonisation of the status of agency workers;

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<sup>16</sup> The European Commission, press release (IP/03/796), 3 June 2003.

- work towards the universal acceptance of the principle that temporary agency workers are the employees of employment agencies (within the boundaries derived from the fact that legal or social conditions in certain countries may preclude the establishment of an employer/employee relationship between agency work businesses and agency workers).

The organisations affiliated to Euro-CIETT are listed in the following table. It is worth noting that methods of calculating the density of companies, the density of TAW and the year of reference vary from country to country. For more details, please read the national reports. At all events, the percentages should be treated with caution. A low level of enterprise density does not automatically mean that that company's impact in the sector is weak: it may be, for example, that the employers' organisations cover only a small number of enterprises, but in terms of turnover and the number of assignments, they may claim a large share of the market, and this will *de facto* strengthen an employers' organisation's position in terms of representativeness. Moreover, in some countries like Belgium and Denmark, organisations cover activities that are not solely limited to temporary agency work, and include sectors linked to recruitment.

Some general observations by group of countries on the subject of the representativeness of organisations that are members of Euro-CIETT are set out below (for more details, please read the national reports):

- countries where representativeness is high and exclusive, and including bargaining power: France, Luxembourg, Portugal and Sweden;
- countries where representativeness is high, and including bargaining power: Belgium, Finland, the Netherlands and Spain;
- countries where there are several quite large representative employers' organisations that take part in collective bargaining, but some of them are not members of Euro-CIETT: Italy and Germany;
- a country where there are other employers' organisations that are not directly representative of the sector, but which also have bargaining power in the sector: Denmark;
- countries where the members' organisations have no bargaining power: Austria, Greece, Ireland and the United Kingdom.

*Organisations affiliated to Euro-CIETT<sup>17</sup>*

Country	Organisation	Sub-sectors covered	Companies	TAWs	Density Companies	Density TAWs	CB	National affiliations		European affiliations		International affiliations	
			number	number	%	%		Yes/No	Direct	Indirect	Direct	Indirect	Direct
Austria	VZA- Association of Austrian Lessors	All	42	n.a.	3%	n.a.	No	No	No	Euro-CIETT	No	CIETT	No
Belgium	FEDERGON		220 (69 of which are temporary employment agencies)	n.a.	97%	n.a.	Yes	FEB/VBO	No	Euro-CIETT	No	CIETT	No
Denmark	DH&S (Danish Commerce and Services)	Trade, service	6,000 (140 active in the sector)	Min. 30,000	48.6% (24%)	n.a.	Yes	DA	No	Euro-CIETT	UNICE	CIETT	No
	FVD (Association of Temporary Work Agencies in Denmark)	All	13	10,000	n.a.	n.a.	No	DH&S	DA	No	Euro-CIETT	No	CIETT
Finland	Private Employment Agencies' Association	All	127	20,000	80	(60)	Yes	PT	No	Euro-CIETT	UNICE ESC, IOE, BIAC	CIETT	No
France	SETT (Union of Temporary Work Agencies)	All	500	n.a.	50%	n.a. (95%)	Yes	Medef, CGPME	No	Euro-CIETT	No	CIETT	No

<sup>17</sup> Sources: National reports

Germany	BZA (German Organisation for Temporary Agency Work)	All	Approx 1,400 branches	n.a.	n.a.	n.a.	Yes	BDA	n.a.	Euro-CIETT	UNICE	CIETT	BIAC, IOE
Greece	ENEPASE (Greek Federation of Agency Work)	All	6	n.a.	60%	n.a.	No	No	No	Euro-CIETT	No	CIETT	No
Ireland	NRF (National Recruitment Federation)	Recruitment	120	n.a.	26%	n.a.	No	IBEC	No	Euro-CIETT	UNICE	CIETT	No
	CIF (Construction Industry Federation)	Construction	Over 3,000	n.a.	n.a.	n.a.	Yes	IBEC	No	UNICE, Euro-CIETT	No	CIETT	No
Italy	Cofinterim (Confederation of Italian Associations of Temporary Work Businesses)	All	38	182,500	52.1	+/- 20.5	Yes	No	No	Euro-CIETT	No	CIETT	No
Luxembourg	ULEDI (Luxembourg Union of Temporary-Employment Enterprises)	All	16	n.a.	50%	80%	Yes	No	FEDIL	Euro-CIETT	No	CIETT	No
The Netherlands	ABU (General Federation Temporary Work Agencies)	All	282	n.a.	90% (estimate)	n.a.	Yes	VNO-NCW, AWWN, MKB Nederland	No	Euro-CIETT	No	CIETT	No
Portugal	APETT	All	50	+/- 32,900	30%	+/- 70%	Yes	CCP	No	Euro-	No	CIETT	No



	(Portuguese Association of Temporary Work Enterprises)										CIETT			
Spain	AGETT (Association of Large Temporary Employment Agencies)	All (large companies)	6	350,000	3%	45%	Yes	CEOE	No		Euro-CIETT	No	CIETT	No
	AETT (Temporary Employment Agencies' Association)	All	60	n.a.	18%	15%	Yes	CEOE, CEPYME	No		Euro-CIETT	No	CIETT	No
Sweden	Swedish Association of Staff Agencies	All	343	30,000	43%	+/-75%	Yes	ALMEGA	Confederation of Swedish Enterprise (Svenskt Näringslivs)		Euro-CIETT	UNICE	CIETT	No
United Kingdom	REC (Recruitment and Employment Confederation)	Services	6,500 (+ 5,500 individual members)	n.a.	+/- 50	n.a.	No	n.a.	n.a.		Euro-CIETT	n.a.	CIETT	n.a.

TAWs: temporary agency workers

Density companies: number of companies affiliated / total number of companies in the sector

Density TAWs: number of temporary agency workers in the affiliated companies / total number of temporary agency workers in the country

CB: Does the organisation take part in collective bargaining?

*Organisations not affiliated to Euro-CIETT<sup>18</sup>*

Country	Organisation	Sub-sectors covered	Companies	TAWs	Density Companies	Density TAWs	CB	National affiliations		European affiliations		International affiliations	
			number	number	%	%		yes/no	Direct	Indirect	Direct	Indirect	Direct
Austria	AFG (Federal Organisation of General Crafts)	All	27,698 (1,287 temporary work agencies in 2003)	60,000 (38,491 temporary agency workers in 2003)	100%	100%	Yes	SGUW	No	No	No	No	No
Belgium	FEB/VBO (Belgian Federation of Employers)	All	Bringing together almost 40 sectoral federations	n.a.	97% (in the temporary agency work sector)	n.a.	Yes	No	No	UNICE	No	IOE	No
Denmark	DI (Confederation of Danish Industries)	Manufacturing industry	n.a.	n.a.	n.a.	n.a.	Yes	DA	No	UNICE	No	No	No
	HTS (Danish Chamber of Commerce)	Trade, transport, tourism	n.a.	n.a.	n.a.	n.a.	Yes	DA	No	UNICE	No	No	No
	DB (The Danish Construction Association)	Building and construction	n.a.	n.a.	n.a.	n.a.	Yes	DA	No	UNICE	No	No	No

<sup>18</sup> Sources: National reports.

Finland	Service Sector Union	TV/radio, Itsector, aviation, copy/printing	1	11,000	0.6	(30)	Yes	TT	No	No	UNICE, ESC, IOE, BIAC	No	No
	FHR (Finnish Hotel and Restaurant Association)	Hotels and restaurants	n.a.	500	n.a.	(1,5)	Yes	PT	No	HOTREC	UNICE ESC IOE BIAC	No	No
France	The only employer s' organisation active in the sector is affiliated to Euro-CIETT												
Germany	IGZ (Association of German Temporary Work Agencies)	All sectors	750 TWA head offices and 1,811 branches	100,000	approx 25%	n.a.	Yes	DGVM, VDSG, VBG	No	No	UNICE	No	BIAC, IOE
	MVZ (Association for Small Temporary Work Agencies)	All sectors	450	45,000	approx 7.5%	n.a.	Yes	Planned: BDA	No	No	UNICE	No	BIAC, IOE
	INZ (Syndicate of North Bavarian Temporary Work Agencies)	Especially sectors marked by higher qualifications	330	40,000	Approx 7.5%	n.a.	Yes	Planned: BDA	No	No	UNICE	No	BIAC, IOE
	BVD (Association of German Services Companies)	Service Sector	n.a.	n.a.	n.a.	n.a.	Yes	BDA	No	No	UNICE	No	BIAC, IOE
	UIS (Employers Organisation for Services and Industry Services)	Industry services	60	n.a.	n.a.	n.a.	Yes	UVG	No	No	No	No	No

Greece	SEV (Federation of Greek Industries)	Manufacturing industries and service industries related to manufacturing, employing over 50 employees	560 companies + 70 sectoral organisations + 7 regional organisations (1998 data)	n.a.	n.a.	n.a.	Yes	No	No	UNICE	No	No	No
	GSEVEE (Confederation of Small and Medium-Sized Enterprises of Greece)	Traders, artisans and professionals (self-employed or employing up to 50 employees)	69 federations + 1,359 associations	n.a.	n.a.	n.a.	Yes	No	No	UEAPME	No	No	No
Ireland	IBEC (Irish Business Employers' Confederation)	All sectors	7,500	n.a.	n.a.	n.a.	Yes	No	No	UNICE	No	IOE	No
Italy	AILT (National Association of Temporary Work Businesses)	All	17	137,619	23.3	+/- 15.5	Yes	CONFINDUSTRIA	No	No	No	No	No
	APLA (Associated Temporary Work Agencies)	All	11	480,000 (missions - estimate)	15.1	53.9 (missions - estimate)	Yes	No	No	No	No	No	No
Luxembourg	The only employers' organisation active in the sector is affiliated to Euro-CIETT												
The Netherlands	NBBU (Dutch Federation)		327	n.a.	10% (estimate)	n.a.	Yes	VNO-NCW, MKB Nederland	No	No	No	No	No

	of Mediation and Temporary Work Agencies)												
<b>Portugal</b>	The only employers' organisation active in the sector is affiliated to Euro-CIETT												
<b>Spain</b>	FEDETT (Spanish Federation of Temporary Employment Agencies)	All (small companies)	90	n.a.	27%	19%	Yes	No	No	No	No	No	No
	ACETT (Catalan Association of Temporary Employment Agencies)	All small companies in Catalonia	34	20,000	10%	7%	Yes	No	No	No	No	No	No
<b>Sweden</b>	The only employers' organisation active in the sector is affiliated to Euro-CIETT												
<b>United Kingdom</b>	The only national-level employers' organisation active in the sector is affiliated to Euro-CIETT. Some other employers' organisations are active in the sector, but only in the construction and contracting sectors.												

TAWs: temporary agency workers

Density companies: number of companies affiliated / total number of companies in the sector

Density TAWs: number of temporary agency workers in the affiliated companies / total number of temporary agency workers in the country

CB: Does the organisation take part in collective bargaining?

## Union Network International Europa (UNI-Europa)

UNI-Europa is the European regional organisation of Union Network International (UNI). It was established on 1 January 2000 following the merger of four international trade union organisations; it is chiefly financed by the affiliation fees of its affiliated unions, which are decided on by its four-yearly conference. Responsibility for the temporary agency work sector falls to the organisation's IBITS (Information, Business, Information Technology, Services) sector.

UNI-Europa is structured as follows:

- the highest governing body is the Regional Conference: it is held every four years, and all affiliates are represented;
- the Regional Executive Committee is responsible for the organisation's affairs during the periods between Regional Conferences: this Executive Committee meets once a year, and it is empowered to appoint sub-committees to assist it in its work;
- the Regional Management Committee is appointed by the Executive Committee; its responsibility is to "assist in the management of the region in between Regional Executive meetings". The President, Vice-President and Regional Secretary are members of the Regional Management Committee<sup>19</sup>.

UNI-Europa plans to contribute to the development of a fair, social Europe. A network of European Works Councils already exists, and UNI-Europa is campaigning for unions to have a much more clearly defined role in the operation of those councils. UNI-Europa also has an important and active role to play in the European Trade Union Confederation (ETUC). Other priorities include:

- developing equal opportunities;
- assisting trade unions in Central and Eastern Europe;
- representing highly qualified and professional staff;
- pressing for better training at work;
- reaching out to new work areas (e.g. call-centres), and to young people.

The rate of unionisation in organisations in most countries is hard to determine precisely because of features that are peculiar to the sector. By definition, temporary agency workers tend to be sent out on assignments in different kinds of sector of economic activity, and this makes it very difficult to calculate the number of members. What is more, few trade unions offer temporary workers a structure that welcomes them and specifically focuses on their needs. As with employers' organisations, the calculation of membership density varies from one country to the next (for more details please refer to the national reports), and furthermore is often unavailable.

As for the representativeness of organisations that are members of UNI-Europa, they are active in the sector in most countries. All representative organisations of active workers in the sector are directly or indirectly members of UNI-Europa in Belgium, Italy, Luxembourg, the Netherlands, Spain, Sweden and the United Kingdom. The situation in Austria is very similar: although there is another non-affiliated trade union in the sector (for blue-collar workers), but UNI-Europa enjoys effective hegemony over almost the entire country. In fact, both trade

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<sup>19</sup> *UNI-Europa. Statutes*, Articles 6-10.

unions belong to the same confederation, which alone has the power to conclude collective agreements. UNI-Europa has no active member organisations in the sector in Greece, Ireland and the United Kingdom. In other countries, several organisations that are not UNI-Europa members play a role in the sector. It is not possible to make an accurate assessment of their influence using available data.

*Organisations affiliated to UNI-Europa<sup>20</sup>*

Country	Organisation	Types of TAW	Members	Members working as TAWs	Density	CB	National affiliations		European affiliations		International affiliations	
		Type	Number	Number	%	yes/no	Direct	Indirect	Direct	Indirect	Direct	Indirect
Austria	GPA (Union of the White-Collar Workers in the Private Sector)	White-collar	284,633 (2001 figures)	Density: under 5% of white-collar temporary agency workers	30%	Yes	No	No	UNI-Europa	No	UNI	No
Belgium	CSC/ACV (Confederation of Christian Trade Unions)	All	1,636,835	+/- 25,000	+/- 27%	Yes	No	No	ETUC, UNI-Europa	No	UNI, WCL	No
	FGTB/ABVV (Belgian General Federation of Labour)	All	1,200,684	+/- 16,000	+/- 17%	Yes	No	No	ETUC, UNI-Europa	No	UNI, ICFTU	No
	CGSLB /ACLVB (Federation of Liberal Trade Unions of Belgium)	All	223,325	+/- 4,000	+/- 4%	Yes	No	No	ETUC, UNI-Europa	No	UNI, ICFTU	No
Denmark	HK - Handel- og Kontorfunktionærernes Forbund	Salaried workers in shops and offices. IT administration	377,228	n.a.	n.a.	yes	LO	No	UNI-Europa	ETUC	UNI-Europa	No

<sup>20</sup> Sources: National reports



	SID (The General Workers Union in Denmark)	Unskilled workers, chauffeurs and storage	317,625	n.a.	n.a.	yes	LO	No	UNI-Europa (source: UNI-Europa)	ETUC	UNI (source: UNI-Europa)	No
<b>Finland</b>	PAM (Service Union United)	Service sector	20,200	n.a.	n.a.	yes	SAK	No	UNI-Europa	ETUC	UNI	ICFTU
	ERTO (Federation of Special Service and Clerical Employees)	Clerical workers	30,000	1,500	5	yes	STTK	No	UNI-Europa (source: UNI-Europa)	ETUC	UNI (source: UNI-Europa)	ICFTU
<b>France</b>	Services Federation-CFDT	All	1,000-1,500 (mainly permanent salaried workers)	n.a.	n.a.	Yes	CFDT	No	UNI-Europa	ETUC	UNI	No
	Secteur Travail Temporaire CGT-FO	All	n.a.	n.a.	n.a.	Yes	CGT-FO	No	UNI-Europa	ETUC	UNI	ICFTU
<b>Germany</b>	Ver.di (United Services Union)	Mainly white-collar	2,614,094	n.a.	n.a.	Yes (indirectly through DGB)	DGB	No	EPSU, ETF, EFJ, UNI-Europa	ETUC	IFJ, PSI, ITF, UNI	ICFTU
	IGBAU (Union of Construction, Agriculture and Environment)	Mainly blue-collar	461,162	n.a.	n.a.	(Yes)	DGB	No	EFBWW, EFFAT, UNI-Europa (source: UNI-Europa)	ETUC	IFBWW, IUF, UNI (source: UNI-Europa)	ICFTU
<b>Greece</b>	There are no relevant trade unions active in the sector											
<b>Ireland</b>	SIPTU (Services Industrial Professional Technical Union)	All sectors	200,000	n.a.	n.a.	Yes	ICTU	n.a.	UNI-Europa (source: UNI-Europa)	ETUC	UNI (source: UNI-Europa)	ICFTU

	IBOA (Irish Bank Officials' Association)	Banking and Finance	18,000	n.a.	n.a.	Yes	ICTU	n.a	UNI-Europa (source: UNI-Europa)	ETUC	UNI (source: UNI-Europa)	ICFTU
Italy	ALAI-CISL (Atypical and Temporary Agency Workers' Association)	All	+/- 21,500	7-8,000 (estimate)	5.3-6.0 (estimate)	Yes	CISL	No	No	UNI-Europa, ETUC	No	UNI
	NIDIL-CGIL (New Work Identities)	All	+/- 17,000	+/- 5,000	+/- 3.8	Yes	CGIL	No	No	UNI-Europa, ETUC	No	UNI
	UIL CPO (Committees for Employment)	All	n.a.	n.a.	n.a.	Yes	UIL	No	No	UNI-Europa, ETUC	No	UNI
Luxembourg	Federation of Commerce and Services	All	n.a.	n.a.	n.a.	Yes	LCGB	No	No	UNI-Europa, ETUC	No	UNI, WCL
	Services et énergie	All	n.a.	n.a.	12% (estimate)	Yes	OGB-L	CGT-L	No	UNI-Europa, ETUC	No	UNI
The Netherlands	FNV Allies (Federatie Nederlandse Vakbeweging Bondgenote)	All	n.a.	6,000 (estimate)	n.a.	Yes	FNV	No	UNI-Europa	ETUC, IVVV (both via FNV)	UNI	No
	CNV Dienstenbond - Christelijk Nationaal Vakverbond Dienstenbond	All	36,000	1,000 (estimate)	n.a.	Yes	CNV	No	UNI-Europa	No	UNI	No
	De Unie	All	100,000	1,500 (estimate)	n.a.	Yes	DE Unie/MHP federation	No	UNI-Europa	No	UNI	No

Portugal	SITese (Sindicato dos Trabalhadores de Escritório, Comércio, Hotelaria e Serviços)	Salaried staff and self-employed workers (as long as they have no one working for them) who work in offices, commerce, hotels and services	n.r.o	n.r.o	n.r.o	Yes	UGT, FETESE	No	ETUC, EFATT, UNI-Europa	No	UNI	ICFTU
	SINDETELC (Sindicato Democrático dos Trabalhadores das Comunicações e dos Media)	Medium and senior-level management, workers in skilled and highly skilled professional categories, administrative workers, workers in distribution	8,333	342 (52 in the Postal Service and 290 in Telecommunications)	0.72% (according to INE); 0.84% (according to DETEFP)	Yes	UGT, UGC, Agostinho Roseta	No	UNI-Europa	No	UNI	No
Sweden	16 federations of Landsorganisation Sverige <sup>21</sup>	Blue-collar workers; all categories of personnel and occupations	1,918,800	6,500	16% (65%)	Yes	LO	No	UNI-Europa, ETUC	No	UNI, ICFTU	No

<sup>21</sup> UNI-Europa says that it has only some of LO's 16 federations (i.e. Handels, Transport, Fastighets, Grafiska and SEKO) in membership.

	Tjänstemanna förbundet HTF	White-collar workers; office employees; middle management	158,000	6,000	15% (80%)	Yes	TCO	No	UNI-Europa, NTF, ETWU	ETUC, Eurocadres	UNI	ICFTU
	CF - Civilingenjörförbundet	Line managers in administration and business administration, Human Resource Managers, Engineers etc	325,900	1,500	4% (50%)	Yes	SACO	No	UNI-Europa	ETUC, Eurocadres	UNI	ICFTU
United Kingdom	Amicus	All	1.3 million	80,000 (construction and contracting), approx 10,000, possibly 20,000, agency workers + approx 15,000 on local authority contracts	Varies	Varies	TUC	n.a.	EMF, UNI-Europa (source: UNI-Europa)	n.a.	IFBWW, UNI (source: UNI-Europa)	n.a.
	GMB		700,000	n.a.	n.a.	n.a.	TUC	n.a.	UNI-Europa (source: UNI-Europa)	n.a.	UNI (source: UNI-Europa)	n.a.
	GPMU (Graphical, Paper and Media Union)		200,000	n.a.	n.a.	n.a.	TUC	n.a.	UNI-Europa (source: UNI-Europa)	n.a.	UNI (source: UNI-Europa)	n.a.

	Prospect		105,000	n.a.	n.a.	None for TAWS	TUC	No	None for TAWS, UNI-Europa (source: UNI-Europa)	None for TAWS	None for TAWS, UNI (source: UNI-Europa)	None for TAWS
	USDAW (Union of Shop, Distributive and Allied Workers)		335,000	n.a.	n.a.	n.a.	TUC	n.a.	UNI-Europa (source: UNI-Europa)	n.a.	UNI (source: UNI-Europa)	n.a.

TAWs: temporary agency workers

Density: number of temporary agency workers affiliated to the organisation / total number of temporary agency workers in the country

CB: Does the organisation take part in collective bargaining?

*Organisations not affiliated to UNI-Europa<sup>22</sup>*

Country	Organisation	Types of TAW	Members	Members working as TAWs	Density	CB	National affiliations		European affiliations		International affiliations	
		Type	Number	Number	%	Yes/No	Direct	Indirect	Direct	Indirect	Direct	Indirect
Austria	GMT (The Blue-collar Workers' Union in the Metal Industry, Mining, Power Industry and Textiles Industry)	Blue-collar	216,799 (2001 figures)	Density: under 10% of blue-collar temporary agency workers	88.7%	Yes	No	No	EMF, EMCEF	No	No	No
<b>Belgium</b>	All organisations active in the sector are member of UNI-Europa											
Denmark	PMF (The National Union of Nursery and Childcare Assistants)	Unskilled childcare assistants	27,118	Under 100	n.a.	Yes	LO	No	No	ETUC	No	No
	BUPL (Danish Federation of Early Childhood Teachers and Youth Educators)	Youth educators	53,435	n.a.	n.a.	Yes	FTF	No	No	ETUC	No	No
	SL (The National Federation of Social Educators)	Social educators	29,809	n.a.	n.a.	Yes	LO	No	No	ETUC	No	No

<sup>22</sup> Sources: National reports

	DSR Danish Nurses' Organisation)	Nurses	53,325	300 (where TAW is the primary workplace)	n.a.	Yes	FTF	No	No	ETUC	No	No
	FOA (Danish Trade Union of Public Employees)	Welfare and healthcare, cleaning etc	194,841	159	0.53%	Yes	LO	No	No	ETUC	No	No
	NNF (National Union of Food and Allied Workers)	Food processing industry	39,205	n.a.	n.a.	Yes	LO	No	EFFAT	ETUC	No	No
	TIB (Danish Union of Wood, Industrial and Building Workers)	Wood-workers	72,135	n.a.	n.a.	Yes	LO	No	EFBWW	No	No	No
<b>Finland</b>												
	Finnish Musicians' Union	Musicians	3,200	350	1	Yes	SAK	No	NMU	ETUC	FIM	ICFTU
	Construction Trade Union	Construction	81,000	n.a.	n.a.	Yes	SAK	No	EMCEF	ETUC, NFS	IFBWW, ICEM	ICFTU
	Chemical Workers' Union	Chemical workers	35,000	n.a.	n.a.	Yes	SAK	No	EMCEF	ETUC, NFS	ICEM	ICFTU
<b>France</b>	USI-CGT (Temporary Work Trade Union-CGT)	All	+/- 1,050 (including 50 permanent salaried workers)	+/- 1,000	n.a.	Yes	CGT	No	No	ETUC	No	No
	CFTC (National Temporary Work Trade Union)	All	n.a.	n.a.	n.a.	Yes	CFTC	No	No	ETUC	No	No

	CFE-CGC (National Federation of Management, Commerce and Services)	All	n.a.	n.a.	n.a.	Yes	CFE-CGC	No	No	ETUC	No	No
Germany	DGB (German Trade Union Federation)	Blue-collar and white-collar	7,363,147	n.a. (200,000)	n.a.	Yes	No	No	ETUC	No	ICFTU	No
	GEW (Education and Science Union)	White-collar	260,842	n.a.	n.a.	(Yes)	DGB	No	EI	ETUC	EI	ICFTU
	IG Metall (Metal Industry Union)	Mainly blue-collar	2,525,348	n.a.	n.a.	(Yes)	DGB	No	EMF, EFBWW	ETUC	IMF, IFBWW	ICFTU
	NGG (Food, Drink, Tobacco and Catering Union)	Mainly blue-collar	236,507	n.a.	n.a.	(Yes)	DGB	No	EFFAT	ETUC	IUF	ICFTU
	GdP (Police)	Mainly white-collar	181,100	n.a.	n.a.	(Yes)	DGB	No	EUROCOP	ETUC	No	ICFTU
	TRANSNET (Transnet Railway Workers)	Mainly blue-collar	283,332	n.a.	n.a.	(Yes)	DGB	No	ETF	ETUC	ITF	ICFTU
	IGBCE (Mining, Chemical and Energy Industrial Union)	Mainly blue-collar	800,762	n.a.	n.a.	(Yes)	DGB	No	EMCEF	ETUC	ICEM	ICFTU
	CGB (Christian Trade Union Federation)	Blue-collar and white-collar	300,000	n.a.	n.a.	No	No	No	CESI	No	n.a.	No



	CGZP (Association of Christian Trade Unions Temporary Work and Personal Services Agencies)	Blue-collar and white-collar	n.a.	n.a. (100,000)	n.a.	Yes	CGB	No	CESI	No	No	No
	Union Ganymed	Mainly white-collar	n.a.	n.a.	n.a.	(Yes)	CGB	No	n.a.	CESI	n.a.	n.a.
	CGM (Christian Metal Industry Union)	Mainly blue-collar	n.a.	n.a.	n.a.	(Yes)	CGB	No	n.a.	CESI	CMT-WCL, WAI	n.a.
	CGPT (Christian Post and Telecommunication Union)	Blue-collar and white-collar	n.a.	n.a.	n.a.	(Yes)	CGB	No	n.a.	CESI	n.a.	n.a.
	DHV (German Association of Trade and Industry)	Mainly white-collar	80,000	n.a.	n.a.	(Yes)	CGB	No	n.a.	CESI	WBA	n.a.
	GoD (Public Services Union)	Mainly white-collar	n.a.	n.a.	n.a.	(Yes)	CGB, dbb-Tarifunion	No	n.a.	CESI	n.a.	n.a.
	VdT (Federation of German Technicians)	Mainly blue-collar	n.a.	n.a.	n.a.	(Yes)	CGB	No	n.a.	CESI	n.a.	n.a.
Greece	There are no relevant trade unions active in the sector											
Ireland												
	IMO (Irish Medical Organisation)	Doctors	6,000	n.a.	n.a.	Yes	ICTU	n.a.	n.a.	ETUC	n.a.	ICFTU

	UCATT UK (Union of Construction, Allied Trades and Technicians)	All sectors	Not known	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.
	INO (Irish Nurses' Organisation)	Nurses	30,000	n.a.	n.a.	Yes	ICTU	n.a.	n.a.	ETUC	n.a.	ICFTU	
<b>Italy</b>	All organisations active in the sector are indirectly members of UNI-Europa												
<b>Luxembourg</b>	All organisations active in the sector are indirectly members of UNI-Europa												
<b>The Netherlands</b>	All organisations active in the sector are members of UNI-Europa												
<b>Portugal</b>	SITESC (Trade Union of Office, Service and Commerce Workers)	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.
	SINDCES (Democratic Trade Union of Commerce, Offices and Services)	Service workers	n.a.	n.a.	n.a.	Yes	UGT, FETESE	No	ETUC	No	ICFTU	No	
	CESP (Trade Union of Portuguese Commerce, Office and Service Workers)		35,355	500	1.05% (according to INE); 1.23% (according to DETEFP)	Yes	CGPT-IN	No	ETUC	No	No	No	No
<b>Spain</b>	All organisations active in the sector are members of UNI-Europa												
<b>Sweden</b>	All organisations active in the sector are members of UNI-Europa <sup>23</sup>												
<b>United Kingdom</b>	UNI-Europa says that it has all organisations active in the sector in membership												

<sup>23</sup> Uni-Europa says that it has only some of LO's 16 federations (i.e. Handels, Transport, Fastighets, Grafiska and SEKO) in membership.

TAWs: temporary agency workers

Density: number of temporary agency workers affiliated to the organisation / total number of temporary agency workers in the country

CB: Does the organisation take part in collective bargaining?

# AUSTRIA

## 1. Description of the sector

### Legal framework and delimitation of the sector

The sector is regulated by the Hiring-Out of Labour Act (Arbeitskräfteüberlassungsgesetz, AÜG) of 1988. This law defines hiring-out as a contractual arrangement for the supply of labour concluded between a temporary work agency (the lessor) and an enterprise (the user firm). In legal terms, a contractual relationship only exists between the lessor and the user firm, and between the lessor and the employees who have been hired out by the lessor. To carry on hiring-out as a business, the lessor must hold an official licence.

The 1988 Act stipulates that a temporary agency worker's level of pay must be based on the collective standard rate in force for a permanent salaried worker in the user firm doing comparable work.

The 1988 Act:

- prohibits non-permanent contracts in contractual relationships between the lessor and the temporary worker;
- excludes certain kinds of work from the definition of hiring-out (e.g. moving an employee from one subsidiary to another within a group);
- bans hiring-out in certain sectors (i.e. the public sector, agriculture and forestry), although the Act does contain special provisions pertaining to agriculture and forestry, but no hiring-out regulations that refer specifically to the public sector;
- prohibits hiring-out in certain circumstances, for example when an industrial dispute is taking place in an enterprise.

The constituent sectoral regulations are defined by law, and the sector is also covered by comprehensive collective agreements (see below). The Act and sectoral collective agreements are additionally supplemented by agreements on temporary work in several large enterprises.

### Socio-economic features of the sector

In 2003, the sector had 1,287 lessors (temporary work agencies), 11,764 user firms and 38,491 temporary agency workers<sup>24</sup>. The latter account for approximately 1.3% of Austria's total workforce. The number of temporary agency workers has been rising since 1994.

There are no available figures for the size of firms: it is clear that most lessors are small enterprises, but there are a few large companies, including multinationals such as Adecco.

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<sup>24</sup> Source: Ministry for Economic Affairs and Employment.

As far as the structure of employment is concerned, male blue-collar workers were in the majority in 2003 with 72% of the total number of temporary agency workers. In the same year, immigrant workers accounted for about 20% of all temporary agency workers; of these, 96% were blue-collar workers. The majority of temporary agency workers are low-skilled; the remainder hold middle-range qualifications, and fall into the categories of skilled blue-collar and administrative staff.

## 2. Social dialogue in the sector

As is so often the case in Austria, the sector is characterised by the principle of free collective bargaining. This means that social dialogue is purely bipartite, and that there is no state interference. Collective agreements are legally binding under the Labour Constitution Act (Arbeitsfassungsgesetz, ArbVG). Collective bargaining takes place exclusively at sectoral level, and collective wage agreements are usually valid for one year. There are also “umbrella agreements” that regulate important non-wage issues such as working time, bonuses, severance pay and periods of notice. These agreements are usually concluded for no longer than one year.

A user firm that hires temporary agency workers is normally obliged to apply the collective agreement covering its own sector not only to its own employees, but also to temporary workers during the time they are working for it. It is worth noting that provisions of the Labour Constitution Act apply a “no worsening” principle: in practical terms, this means that, if the collective agreement that covers the user firm is less favourable to temporary workers, the collective agreement directly binding the lessor becomes valid even during periods of hiring-out.

The actors are as follows:

- There are two trade unions that represent temporary agency workers in collective bargaining: the Union of Blue-collar Workers in the Metal Industry, Mining, the Power Industry and the Textiles Industry (Gewerkschaft Metall-Textil, GMT), which represents the sector's blue-collar workers, and the Union of White-collar Workers in the Private Sector (Gewerkschaft der Privatangestellten, GPA), which represents the sector's white-collar workers. Blue-collar workers have a collective agreement specific to the sector, that is to say specific to lessors and to their temporary agency workers; by contrast, white-collar workers come under a broader, cross-sectoral collective agreement that covers most branches of craft production and a few service branches: it accordingly contains a clause authorising the bargaining parties to lay down specific regulations for a given sector within the agreement's purview. As far as hiring-out is concerned, the bargaining parties have made use of this clause to insert a special clause dealing with travelling costs and the reimbursement of accommodation costs. Unlike its white-collar counterpart, the collective agreement for the sector's blue-collar workers contains an actual-pay clause referring to user firms in one of the high-wage sectors listed in the collective agreement. Actual-pay clauses in Austria lay down a percentage increase to be applied to rates actually paid in companies covered by the collective agreement. In this way, wage drift becomes incorporated into collective bargaining. The result is that there is no significant difference between the pay of blue-collar workers and of temporary blue-collar workers in high-wage sectors. The GPA's most important bargaining objective is the inclusion of an actual-pay clause in the salary agreement for white-collar temporary workers as well. By contrast, the GMT criticises the fact that lessors terminate (permanent) contracts relatively often after short periods of employment.
- The sector's employers are the lessors. The lessors form a subunit, the Federal Organisation of General Crafts (Allgemeine Fachverband des Gewerbes, AFG) of the Federal Organisations of the Austrian Chamber of the Economy (Wirtschaftscammer Österreich, WKÖ). It also acts as an employers' organisation. As membership of the AFG, and of other employers' organisations involved in negotiating the cross-sectoral agreement for white-collar workers, is mandatory, the coverage rate of collective bargaining is 100%.

The GMT, GPA and AFG conduct collective bargaining on behalf of the sector. They also meet informally on a regular basis to discuss what they judge to be problems in the sector. This shows that industrial relations in the sector are based on the principles of cooperation and partnership.

The organisational structures set out above demonstrate that collective bargaining and sectoral social dialogue take place in a non-competitive way. The membership domains of the two unions are mutually exclusive in that they operate on behalf of their respective employment statuses (i.e. blue-collar workers and white-collar workers). The AFG enjoys a *de facto* bargaining monopoly.

### 3. Organisations active in the sector<sup>25</sup>

#### Employers' organisations

The **AFG (Federal Organisation of General Crafts - Allgemeiner Fachverband des Gewerbes)** is the only employers' organisation engaged in collective bargaining that deals with the sector's labour market interests. The AFG is a subunit of the Federal Organisations of the Austrian Chamber of the Economy, and therefore shares with other Federal Organisations all formal characteristics relating to matters of identification, representativeness and recognition<sup>26</sup>. Within the framework of the WKÖ, the AFG organises all craft enterprises, including temporary work agencies (lessors) that have not been formally allocated to one of the other Federal Organisations of Crafts. Because of its chamber status within the framework of the WKÖ, the AFG enjoys a legally guaranteed right to be consulted by the government on all economic and social matters concerning its field of activity.

The AFG concludes collective agreements for companies in its field of activity and, since there is no competing employers' organisation, has a *de facto* monopoly in this respect.

In 2002, the AFG represented 27,698 member enterprises, which in turn had a combined workforce of about 60,000. As a subunit of the WKÖ, membership of the AFG is mandatory. This means that density in terms of both enterprises and employees is 100%.

The **VZA (Association of Austria's Lessors - Verband der österreichischen Zeitarbeitunternehmen)** is a voluntary association. It does not represent labour market interests, and leaves the whole area of industrial relations to the AFG. It follows that the VZA is not an employers' organisation, but belongs to a group of strictly trade associations that concentrate on what might be called the product-market interests of business, rather than its labour market interests. As a result of their functional specialisation, the sector's business associations do not compete with one another, but complement one another.

As a trade association, the VZA focuses on two representational activities: firstly, it engages in lobbying with a view to extending areas of hiring-out (as this summary has already pointed out, the AUG prohibits hiring-out in certain fields of activities), and secondly, it mounts public relations activities aimed at improving the sector's image.

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<sup>25</sup> Sources: The respective organisations.

<sup>26</sup> The membership unit of the WKÖ's Federal Organisations is the business licence, which is not the same as the enterprise or establishment. This is because in business law, a particular kind of (always formally demarcated) business activity can only be conducted by an enterprise when this enterprise has the appropriate business licence. Enterprises often have more than one licence, and it is therefore common for the number of licences under the umbrella of a certain Federal Organisation to exceed the number of member enterprises.

The VZA does not have the right to be formally consulted by government over matters regarding the sector, and it accordingly carries out its representational activities in close cooperation with the WKÖ and its sectoral subunit, the AFG.

## Workers' organisations

The GPA and the GMT represent labour's sectoral interests. They are both affiliated to the **ÖGB (Austrian Trade Union Federation - Österreichischer Gewerkschaftsbund)**, and they therefore have many features in common. The ÖGB and its affiliates are voluntary associations financed by voluntary dues paid by members. Dues are harmonised to a considerable extent insofar as the standard contribution paid by regular members is 1% of salary. Only the ÖGB enjoys the status of a legal person; in formal terms, its affiliated unions are dependent subunits. The domains of affiliated unions are demarcated in such a way as to ensure as much complementarity as possible. The two main parameters for domain demarcation are sectoral affiliation and employee category (i.e. blue-collar and white-collar workers). It is extremely difficult to estimate the density ratio of these two affiliated unions, and of certain membership sub-groups, as the organisations' membership domains cut across conventional statistical definitions. The density ratios reported below should therefore be seen as very approximate estimates. As a voluntary association, the ÖGB has legal recognition as a bargaining partner under the recognition procedure outlined above. It should also be noted that, unlike its affiliated unions, the ÖGB alone has the legal right to conclude collective agreements.

The reason for this, as this summary has already made clear, is that only the ÖGB has the status of a legal person. In practice, this means that affiliates negotiate collective agreements for their members autonomously (i.e. without interference from the ÖGB), although formally they have to sign them on behalf of the ÖGB. The ÖGB together with its affiliated trade unions have a *de facto* monopoly of bargaining on behalf of labour.

Participation in formal consultations lies mainly within the competence of the ÖGB, but in sector-specific matters that only affect the employees of one affiliated union, consultative activities are devolved to that organisation. There are no consultation rights at company level; that is because there is a "dual" system of employee representation in Austria involving statutory Works Councils that formally have no connection with the trade unions, and which are designed to represent employees at plant or enterprise level.

The **GPA (Union of White-Collar Workers in the Private Sector - Gewerkschaft der Privatangestellten)** represents white-collar workers throughout the private sector, and therefore organises white-collar temporary agency work as well. In membership terms, it is the largest ÖGB affiliate: in 2001, GPA membership stood at 284,633. There are no precise figures for the number of white-collar employees working in the GPA's domain, but density in the GPA domain is estimated to be approximately 30%. In the sector under examination, union officials say that the estimated density is somewhat below 5% of the sector's total white-collar employee membership.

The GPA negotiates collective agreements for white-collar workers in the private sector, including white-collar temporary agency workers: they are incorporated into a kind of cross-sectoral collective agreement that covers most areas of craft production.

The **GMT (Union of Blue-collar Workers in the Metal Industry, Mining, the Power Industry and the Textiles Industry - Gewerkschaft Metall-Textil)** is the result of a merger between two organisations: the Union of Blue-collar Workers in the Metal Industry, Mining and the Power Industry (Gewerkschaft Metall-Bergbau-Energie, GMBE) and the Union of Blue-collar Workers in the Textiles Industry, Clothing Industry and Leather Industry (Gewerkschaft Textil-Bekleidung-Leder, GTBL). In 2001, the GMT claimed 216,799 members. An estimate of the GMT's overall density requires employment figures broken down both by employee categories and by sub-sectoral branches. These data are only available for 1999<sup>27</sup>, the year

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<sup>27</sup> Rechnungshof (2000) *Bericht gemäß Art 1 §8 Bezügebegrenzungsgesetz*. Vienna: Print Media.

before the GMT was formed, so it is only possible to estimate "consolidated" density based on the aggregate membership of the GMT's antecedents: this produces a gross density of approximately 88.7%.

Temporary agency blue-collar workers do not automatically fall within the bargaining domain of a union specialising in blue-collar workers in metalworking and textiles, particularly as there is also a blue-collar, private-service sector union under the umbrella of the ÖGB<sup>28</sup>. The background to this situation is that in response to the expansion in temporary agency work, the original idea was that the ÖGB itself should negotiate, and conclude, collective agreements for the sector's blue-collar workers since they can be hired out to a large number of different sectors. In the end, this idea was rejected because the ÖGB lacks bargaining experience in a system where all agreements are concluded below peak level (i.e. sectoral level). It was therefore decided to delegate this bargaining task to the GMT for two main reasons: firstly, because most temporary agency workers are hired out to user firms in the metalworking industry, and electronics in particular, and secondly because the GMT is pre-eminent in terms of its bargaining power. This was important because the lessors originally refused to take part in collective bargaining. In the event, the first collective agreement for blue-collar workers in temporary agency work was signed in 2002, but not before difficult negotiations had taken place between the GMT and the AFG<sup>29</sup>.

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<sup>28</sup> Traxler, F. (1998) "Austria: Still the Country of Corporatism", in A. Ferner and R. Hyman (eds.), *Changing Industrial Relations in Europe*. Oxford: Blackwell.

<sup>29</sup> EIRO (2002) "First agreement signed for temporary agency workers", <http://www.eiro.eurofound.ie/2002/02/InBrief/AT0202202N.html>.



# AUSTRIA

## Elements relating to the organisations

### *Employers' organisations (2002 – Source: the organisations)*

Organisation		Sub-sectors covered	Companies	TAWs	Density Companies	Density TAWs	CB	National affiliations		European affiliations		International affiliations	
Original name	English name		Number	Number	%	%	Yes/No	Direct	Indirect	Direct	Indirect	Direct	Indirect
AFG - Der Allgemeine Fachverband des Gewerbes	Federal Organisation of General Crafts	All	27,698 (1,287 temporary work agencies in 2003)	60,000 (38,491 temporary agency workers in 2003)	100%	100%	Yes	SGUW	No	No	No	No	No
VZA - Verband der österreichischen Zeitarbeitunternehmen	Association of Austrian Lessors	All	42	Not available	3%	Not available	No	No	No	Euro-CIETT	No	CIETT	No

TAWs: temporary agency workers

Density companies: number of companies affiliated / total number of companies in the sector

Density TAWs: number of temporary agency workers in the affiliated companies / total number of temporary agency workers in the country

CB: Does the organisation take part in collective bargaining?

### *Trade Unions (2003-2004 – Source: the organisations)*

Organisation		Types of TAW	Members	Members working as TAWs	Density	CB	National affiliations		European affiliations		International affiliations	
Original name	English name	Type	Number	Number	%	Yes/No	Direct	Indirect	Direct	Indirect	Direct	Indirect
GPA - Gewerkschaft der Privatangestellten	Union of White-Collar Workers in the Private Sector	White-collar	284,633 (2001 figures)	Density: under 5% of white-collar temporary agency workers	30%	Yes	No	No	UNI-Europa	No	UNI	No
GMT -	The Union of	Blue-collar	216,799 (2001)	Density: under	88.7%	Yes	No	No	EMF,	No	No	No

Gewerkschaft Metall-Textil	Blue-collar Workers in the Metal Industry, Mining, the Power Industry and the Textiles Industry		figures)	10% of blue-collar temporary agency workers						EMCEF			
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TAWs: temporary agency workers

Density: number of white-collar or blue-collar workers affiliated to the organisation / total number of white-collar or blue-collar workers in the country.

CB: Does the organisation take part in collective bargaining?

# BELGIUM

## 1. Description of the sector<sup>30</sup>

### Legal framework and delimitation of the sector

Temporary agency work in Belgium is governed by the frequently amended Law of 24 July 1987 on temporary work, temporary agency work, and the practice of placing workers at the disposal of user firms. The guiding principle of this legislation is the ban on placing workers at companies' disposal, but there are five exceptions, including temporary agency work and schemes for moving from temporary agency work to full-time employment, which affect the long-term unemployed, and recipients of the *revenu d'intégration* (an allowance given to people who have insufficient income to fend for themselves) and of the *aide sociale* (cash social welfare allowance).

User firms may only avail themselves of temporary agency work in three settings:

- as a replacement for a permanent worker;
- during temporary and exceptional peaks of work;
- for unusual work.

In some cases, reliance on temporary agency work requires prior authorisation from the union delegation in the user firm. There are procedures in place to deal with a situation in which the user firm does not have a union delegation.

Temporary agency work is also banned in certain circumstances. For example, the use of temporary agency workers (TAWs) is prohibited:

- under the terms of collective agreements in the house removal and furniture storage sectors (Joint Committee 140.5), and in harbour-based enterprises (Joint Committee 301), but excluding those in the Port of Antwerp;
- in the public sector to replace civil servants in certain circumstances;
- in certain jobs such as asbestos removal and work involving the use of explosives (Royal Decree of 14 January 1992);
- in the event of a strike or lock-out.

Temporary agency work is also subject to certain limitations. It is limited:

- under the terms of collective agreements in the event of redundancy and work standstill in the user firm;

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<sup>30</sup> Sources: 2003 Annual Report of FEDERGON; IDEA Consult, 2002, *Les intérimaires et leur emploi en 2001: Etude de profil* (Temporary agency workers and their employment in 2001: Profile study).

- in the construction sector, to the temporary replacement of workers whose contracts have been suspended, and to dealing with temporary and exceptional peaks of work.

TWA access to the labour market in Belgium is regulated and monitored by an accreditation system operating at regional level. The aim of the system's procedures is to isolate enterprises that flout the law.

The employer is the temporary work agency (TWA), and it is with the firm that the temporary agency worker (TAW) signs a contract of employment. The firm also pays the salaries and is responsible for the entire administrative management of the paperwork. However, some of the employer's authority is transferred to the user firm, with the latter dealing with obligations flowing from regulations that are "applicable at the workplace", including the organisation of, and supervision at, work. In this respect, temporary agency work is a triangular relationship.

Lastly, the Belgian government is working on implementation of ILO Convention No 181, which provides for an end to state monopolies on job placement services.

### Socio-economic features of the sector

In 2003, there were 120 active enterprises in a sector totalling 948 agencies and 4,262 permanent workers. The penetration rate of temporary agency work as a proportion of total salaried employment is estimated to have risen to 1.89%. It was higher in Flanders (2.13%). During the same year, 314,838 TAWs had one or more assignments, and a further 100,000 students found jobs through TWAs. The length of the most recent assignment in 2001 varied between 3.7 months and 4 months, depending on the region.

Most user firms are small and medium-sized enterprises: in 2001, 74.1% of users were enterprises employing fewer than 100 workers, and they were mainly active in industry (49.3%) and services (35.3 %).

In 2003, most TAWs were men (57.5%, compared with 42.5% women) and blue-collar workers (63.6%, compared with 36.4% white-collar workers). Female temporary agency workers are more likely to be white-collar than blue-collar workers. There is also evidence that the average age of temporary agency workers is low (64% are 30 years of age or below). In terms of qualifications, 77.6% of TAWs have at least a diploma in higher secondary education, but only 25.1% have passed through higher (university or non-university) education.

As for future developments, it is noteworthy that temporary agency work is still very dependent on the economic situation: following a period of two years during which business declined, activity in the temporary agency work sector stabilised in 2003.

## 2. Social dialogue in the sector

Social dialogue in the sector takes place under the aegis of Joint Commission 322. This Committee was set up by a Royal Decree in 1988, and was known as the Joint Committee for Temporary Agency Work until 2004, when it became the Joint Committee for Temporary Agency Work and Accredited Enterprises Providing Local Services. Since then, the Committee's scope has been extended to enterprises active in the field of introducing local community service-vouchers. Given the special features of local services, this work is likely to lead to the establishment of an *ad hoc* Joint Sub-Committee.

The Joint Committee for the temporary agency work sector is made up of 30 full members and the same number of alternate members. The employers' organisations represented on the Joint Committee are FEDERGON (Fédération des partenaires de l'emploi/Federatie van partners voor werk) with 9 seats, and the Belgian Federation of Employers (Fédération des Entreprises de Belgique/Verbond van Belgische Ondernemingen, FEB/VBO) with 6; the trade unions are represented by the Confederation of Christian Trade Unions (Confédération des Syndicats Chrétiens/Algemeen Christelijk Vakverbond, CSC/ACV) and the Belgian General Federation of Labour (Fédération Générale du Travail de Belgique/Algemeen Belgisch

Vakverbond, FGTB/ABVV), each of which has 7 seats, and the Federation of Liberal Trade Unions of Belgium (Centrale Générale des Syndicaux Libéraux de Belgique/Algemene Centrale der Liberale Vakbonden van België, CGSLB/ ACLVB), which has 1.

Although TAWs are entitled to receive the same salary, the same terms and conditions of employment and all supplementary payments agreed at enterprise level (e.g. travelling expenses) as other workers in the user firm doing comparable work, real bargaining still takes place on the Joint Committee: for example, the last two sectoral agreements for 2001-2002 and 2003-2004 focused on a number of issues including the end-of-year bonus, training, safety, mobility, at-risk groups, loans, and an additional common-law payment made in cases of long-term sickness and accidents.

In 1991, the sector acquired a mediation committee (*Commission des Bons Offices*) made up jointly of the three representative workers' organisations and the employers' federation for the TWA sector. It meets at least once a month, and in particular has powers to deal with all individual and collective issues that fall within the social status of temporary agency workers, to address the excessive use of temporary agency work in enterprises that have no union delegation, and to hear grievances relating to the Code of Conduct relating to the prevention of racial discrimination.

The temporary agency work sector also has a Social Fund managed by representative workers' organisations and representative employers' organisations in the temporary agency work sector and in user firms. The Fund is particularly involved in paying the end-of-year bonus, trade union benefits, and the salaries and allowances for which TAWs qualify in the event of a temporary work agency going bankrupt. It also acts as guarantor for loans for social purposes.

In 2003, the social partners set up a Sectoral Training Fund, the main aim of which is to coordinate and stimulate individual and collective training work in the sector.

Lastly, a significant amount of social dialogue concerning temporary agency work takes place at sectoral level on the National Labour Council (Conseil National du Travail/Nationale Arbeidsraad, CNT/NAR): unlike sectoral agreements, agreements concluded on the National Labour Council are linked to the establishment of a general framework for ways of using temporary agency work, in particular the procedures to be followed (Collective Agreement No 58 of 1994).

### 3. Organisations active in the sector

#### Employers' organisations

FEDERGON (*Fédération des partenaires de l'emploi/Federatie van partners voor werk*), which was known as UPEDI between 1964 and 2002, is organised into six areas of activity incorporating:

- temporary work agencies;
- temporary management agencies<sup>31</sup>;
- recruitment, search and selection consultancies;

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<sup>31</sup> Despite the possibly misleading reference to temporary agencies, FEDERGON Interim Management does not fall within the remit of this category.

- out-placement consultancies;
- projects and outsourcing units.

FEDERGON-Intérim has 69 of FEDERGON's 220 affiliated enterprises in membership. In addition to handling social negotiations, FEDERGON-Intérim performs a self-regulatory function within the sector. To become members of the Federation, enterprises have to undergo an audit and, on the basis of an annual audit carried out by an external auditor, FEDERGON issues members with a quality label; in particular, this label guarantees compliance with social legislation. Staff in FEDERGON member enterprises who are in contact with temporary agency workers also have to pass an examination in social legislation. Lastly, FEDERGON established a mediation service in 1996: in 2003, it dealt with 163 complaints from temporary agency workers.

In the political arena, FEDERGON is calling for an in-depth reform of the 1987 Law on temporary agency work. The federation says that the legislation is based on a conception of the labour market that goes back to 1976, and does not enable temporary agency work to have a positive impact on job creation. It is also calling for public administrations to have full access to temporary agency work.

The **FEB/VBO (Fédération des Entreprises de Belgique/Verbond van Belgische Ondernemingen – Belgian Federation of Employers)** represents user firms on the Joint Committee for Temporary Agency Work and, as such, takes part in sectoral negotiations. The FEB/VBO also sits on the National Labour Council, and therefore plays a key role in negotiating the general framework in which temporary agency work functions. It is a national and sectoral federation, and therefore cannot affiliate to another federation.

Lastly, it should be noted that other employers' organisations participate in social dialogue at National Labour Council level: the most important of these are the Union of the Middle Classes (Union des Classes Moyennes, UCM) and the Organisation of the Self-Employed (Organisatie voor Zelstandige Ondernemers, UNIZO).

## Workers' organisations

It has to be made clear from the outset said that it is extremely difficult to estimate the rate of unionisation of temporary agency workers. The payment of end-of-year bonuses<sup>32</sup> suggests that almost half of all temporary agency workers are trade union members: in 2003, the rate of unionisation on this basis was 49%, but that was a minimum estimate. To qualify for an end-of-year bonus, a temporary agency worker needs to have worked for at least 65 days during the relevant period but, given the factors that mark trade union membership in Belgium, it is very likely that a large number of temporary agency workers who have no entitlement to end-of-year bonuses are nonetheless unionised. Lastly, the various trade union organisations presented below are national and intersectoral federations, and therefore cannot affiliate to other federations.

In the **CSC/ACV (Confédération des Syndicats Chrétiens/Algemeen Christelijk Vakverbond - Confederation of Christian Trade Unions)**, the handling of temporary agency work matters is centralised at interprofessional level. It is dealt with by a working group whose membership is made up of representatives of occupational unions and regional federations. On the basis of the principle that the social status of temporary agency workers has improved, but that "a lot remains to be done", the CSC/ACV is trying to limit the amount of temporary agency work, and, as far as possible, to promote the transition from temporary agency work to permanent employment. An important issue for the CSC/ACV is the adaptation of trade union work in user firms: for example, the union is seeking to strengthen solidarity between "permanent" and "precarious" workers. The CSC/ACV argues that union representatives in

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<sup>32</sup> Source: Sectoral Social Fund.

firms using temporary agency workers are best placed not only to inform temporary agency workers of their rights, insist on compliance with the legal provisions that concern them, and ensure that their terms and conditions of employment are improved, but also to promote their integration in the enterprise and the trade union.

The **FGTB/ABVV (Fédération Générale du Travail de Belgique/Algemeen Belgisch Vakverbond - Belgian General Federation of Labour)** is responsible for the general coordination of trade union activity around temporary agency work and, to this end, has a temporary agency work coordination team that includes a representative for each occupational trade union. The general union also includes an occupationally based committee that deals specifically with temporary agency work, and brings together union representatives with regional responsibility for coordinating trade union activity on temporary agency work. The FGTB/ABVV acknowledges that internal and external flexibility are gaining ground, but believes that full-time contracts of unlimited duration are, and should continue to be, the rule. The union argues that any contract that departs from these norms must henceforth only meet specific requirements. The FGTB/ABVV accordingly plans to develop defensive strategies for opposing certain forms of flexibility, and offensive strategies aimed at negotiating forms of flexibility that are chosen by workers, and which take account of their individual and collective interests.

In the **CGSLB/ACLVB (Centrale Générale des Syndicats Libéraux de Belgique/Algemene Centrale der Liberale Vakbonden van België - Federation of Liberal Trade Unions of Belgium)**, temporary agency work comes under the “CGSLB Services” group. The union thinks that the situation in respect of temporary agency work in Belgium is satisfactory, particularly because of the good legal framework that surrounds it, the procedure for accrediting user firms, and the quality of sectoral social dialogue. The CGSLB/ACLVB says that most abuses occur in the length of assignments, and in some of the pressure placed on union delegations. The union also argues that temporary agency work should remain a voluntary individual choice, and that contracts of unlimited duration should remain the normal form of employment.

# BELGIUM

## Elements relating to the organisations

### *Employers' organisations (2003 – Sources: the organisations)*

Organisation		Sub-sectors covered	Companies	TAWs	Density Companies	Density TAWs	CB	National affiliations		European affiliations		International affiliations	
Original name	English name		Number	Number	%	%	Yes/No	Direct	Indirect	Direct	Indirect	Direct	Indirect
<b>FEDERGON</b> - Fédérations des partenaires de l'emploi/Federatie van partners voor werk			220 (69 of which are temporary employment agencies)	Not available	97%	Not available	Yes	FEB/VBO	No	Euro-CIETT	No	CIETT	No
<b>FEB/VBO</b> - Fédération des Entreprises de Belgique/Verbond van Belgische Ondernemingen	Belgian Federation of Employers		Bringing together almost 40 sectoral federations	Not available	97% (in the temporary agency work sector)	Not available	Yes	No	No	UNICE	No	IOE	No

TAWs: temporary agency workers

Density companies: in terms of the turnover in the temporary agency work private sector

Density TAWs: number of temporary agency workers in the affiliated companies / total number of temporary agency workers in the country

CB: Does the organisation take part in collective bargaining?

### *Trade Unions (2003 – Sources: the organisations)*

Organisation		Types of TAW	Members (in 2000) <sup>33</sup>	Members working as TAWs (in 2003)	Density (in 2003)	CB	National affiliations		European affiliations		International affiliations	
Original name	English name	Type	Number	Number	%	Yes/No	Direct	Indirect	Direct	Indirect	Direct	Indirect
<b>CSC/ACV</b> - Confédération des Unions	Confederation of Christian Trade Unions	All	1,636,835	+/- 25,000	+/- 27%	Yes	No	No	ETUC, UNI-Europa (IBITS)	No	UNI, WCL	No

<sup>33</sup> Source: Information Socio-policy and Research Centre, Weekly Newsletter No 1781.



Syndicats Chrétiens/Algemeen Christelijk Vakverbond												
<b>FGTB/ABVV</b> - Fédération Générale du Travail de Belgique/Algemeen Belgisch Vakverbond	Belgian General Federation of Labour	All	1,200,684	+/- 16,000	+/- 17%	Yes	No	No	ETUC, UNI- Europa (IBITS)	No	ICFTU, UNI	No
<b>CGSLB</b> <b>/ACLVB</b> - Centrale Générale des Syndicats Libéraux de Belgique/Algemeen Centrale der Liberale Vakbonden van België	Federation of Liberal Trade Unions of Belgium	All	223,325	+/- 4,000	+/- 4%	Yes	No	No	ETUC, UNI- Europa (IBITS)	No	ICFTU, UNI	No

TAWs: temporary agency workers; members working as TAWs: Based on payment of end-of-year bonuses (Source: Sectoral Social Fund).

Density: Based on payment of end-of-year bonuses (Source: Sectoral Social Fund).

CB: Does the organisation take part in collective bargaining?

# DENMARK

## 1. Description of the sector

### Legal framework and delimitation of the sector

Temporary agency work in Denmark is defined as an employment situation in which a company hires outside workers through an agency to carry out a task of fixed duration. The temporary agency worker is employed by the agency and leased to the user company, which normally has managerial rights<sup>34</sup>.

The employment relationship between the agency and the agency worker is regulated by existing legislation, by the Salaried Employees Act (see below), and by various collective agreements. Many agencies operate on the basis of two employment contracts with the agency worker: a general contract entered into at the beginning of the relationship, and a special contract for each assignment. The user company is under an obligation to follow current provisions relating to the working environment, and to have a proper employer's liability insurance scheme.

Temporary agency workers can be employed by the agency or associated with the agency as a self-employed person, but they are usually employed on a fixed-term contract (typically of the same duration as the length of specific assignments at different workplaces). No type of work is excluded from temporary agency work by law or under the terms of collective agreements. In practice, many sectors and occupations have no tradition of using temporary agency workers.

There is no specific legal status of temporary agency worker in Denmark. Overall, legislation regulating the labour market is very limited, although some existing law is important in respect of the status of the temporary agency worker. In general, temporary agency workers are protected by the law at the same level as other employees, and in some cases, as long as the job exceeds eight hours a week. Temporary agency workers are entitled to receive a letter of employment from the employer (legal implementation of Directive 91/533).

There is an important exception, though: temporary agency workers are not covered by the law protecting salaried employees (i.e. white-collar workers) despite the fact that this is the kind of work they most frequently do. The Act on the Legal Relationship between Employers and Salaried Employees (sometimes called the White-collar Workers Act) provides an entitlement to pay during sickness and the right to a minimum of one month's notice of termination. However, temporary agency workers are not covered by this law, and they cannot therefore claim the same rights as other workers. The main reason for this is the situation with regard to employment of temporary agency workers: they are not under an obligation to work. The right to refuse work is an important part of the agreement between the temporary agency worker and the agency.

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<sup>34</sup> The regulation of temporary work agencies was abandoned in 1990 in order to make it easier to establish flexible temporary work agencies. Regulation had been comprehensive until that time. The agencies needed a permit to operate, and standard contracts with the temporary workers were mandatory.

## Socio-economic features of the sector<sup>35</sup>

In 2001, agencies employed 32,206 temporary agency workers, who together contributed 13.5 million temporary agency work-hours (i.e. equivalent to 8,000 full-time employees). There were 550 agencies in 2001, but most of the turnover was concentrated among the largest companies/agencies.

In spite of an impressive growth rate over the last ten years, the use of temporary agency work is still relatively limited in Denmark as compared with other European countries. Temporary agency work accounts for 0.9% of the Danish workforce. It follows that there is considerable potential use of temporary agency workers on the Danish labour market, although the tradition of using this kind of flexible work is not widespread: for example, temporary agency work has been seen as less prestigious, and has been characterised by a lack of job security and pension rights, and by a constant change in working condition. In this context, it is also worth noting that Denmark, a country where recruitment and termination are relatively easy, has one of the most flexible labour markets in Europe: this means that it is easier for companies to adjust workforce levels to suit their needs.

The sector is characterised by large and small temporary work agencies with a wide variety of service profile ranging from international groups, which offer services at all levels in all occupations/industries to small specialist agencies with a particular geographical or occupational focus. Most turnover is also divided between three categories of temporary workers: healthcare, production/storage/chauffeurs and administration. It is worth noting the distribution of nurses has increased considerably: in 2002, the distribution of nurses, social workers and healthcare workers accounted for 28% of the total distribution of temporary agency workers.

There are variations in wages and working conditions: briefly, wages in the welfare and healthcare sectors are much higher than in clerical and storage work. Nursing agency workers also earn more than their colleagues at the workplace.

## 2. Social dialogue in the sector

Social dialogue in the temporary agency work sector basically builds on bipartite negotiations between autonomous parties, while regulation of the Danish labour market and the legitimacy of its organisations builds on reciprocal recognition. In common with other state involvement, legislation plays a minor role.

It is generally accepted that 80-85% of the Danish labour market is covered by collective agreements. However, there is no obligation on employers or employees to register the results of collective agreements, or the number of employees covered by them, and it is therefore difficult to provide reliable information on the level of coverage of collective agreements on the labour market. Temporary agency work is no exception, but collective bargaining in the specific area of temporary agency work certainly takes place, and coverage of collective agreements seems to be high. It is important to note that there is no specific Joint Committee for the sector.

Generally speaking, the normal collective agreements between employers' organisations and trade unions cover the same fields of employment as collective agreements that specifically focus on temporary agency workers. The "law"-agreements were renewed during the private-sector bargaining round in early 2004, and their number and the range of issues increased considerably. Basically, the agreements emphasise that wages and working conditions comply with those applied as a minimum by the user company, whereas social issues (e.g. pensions) are covered by the temporary work agency, which is deemed to be the employer. The employers' association DH&S has pointed out that this managerial prerogative is being

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<sup>35</sup> Sources: The European Foundation for the Improvement of Living and Working Conditions: Temporary agency work national reports: Denmark, Dublin 2002; Statistics Denmark 2003 and the employers' association Danish Commerce and Service.

challenged by attempts to introduce a specific EU temporary agency work Directive: this suggests that agency workers will qualify for all of the user company's conditions including pensions. DH&S argues that with a system of collective agreements like the one operating in Denmark, there is no need for further regulation<sup>36</sup>.

To an extent, the need for collective agreements with a special focus on temporary agency workers derives from the fact that "normal" collective agreements have been drawn up. These agreements often link the rights that employees achieve through collective agreements and employees' seniority in the job: this is true of issues such as the right to employer contributions to the pension scheme, extra holidays, paid leave on a child's first day of sickness, the term of notice and paid vocational training. These rights are achieved after 3-9 months' service in the company. In some collective agreements, wages are in some way linked to seniority.

Focus on collective bargaining between unions and temporary work agencies is limited. The sector in Denmark is still quite small, and neither the trade unions nor the employers' organisations have experienced serious problems in this area. Temporary agency work has not been discussed in detail on a general level by the Danish Employers' Confederation (DA), and the Danish Confederation of Trade Unions (LO), the two main organisations concerned.

The collective agreement between the DH&S and the General Workers' Union of Denmark (SiD) covering employees in temporary work agencies focuses particularly on some of the issues mentioned above including pay, working hours, pension contributions, extra holidays, the term of notice, and paid leave on a child's first day of sickness. However, these rights are not effective from the beginning of the employment, but after 1443-1924 hours' work (this figure varies according to the different types of right) at the agency, and employment could be at different agencies. Seniority must be achieved within a limited period (this also varies also according to the different types of right), and it lapses after 12 months with no employment at the agency.

This collective agreement tries to address the special situation facing temporary workers. Temporary workers find it hard to achieve the level of seniority that is a precondition in ordinary collective agreements to obtaining these rights. In the collective agreement dealing with temporary work agencies, seniority is measured in hours, and this helps to improve workers' chances of obtaining the necessary seniority. However, the seniority needed to obtain these rights is not significantly shorter in the collective agreement covering temporary work agencies: it is only measured in hours, and there are more favourable conditions concerning the period in which the seniority is earned. It is a general attempt to give equal status to temporary workers.

The protocol added to the general agreement between the Union of Commercial and Clerical Employees in Denmark (HK) and the DH&S does not cover the issues of working hours, contributions to pension schemes, extra holidays, the term of notice, and paid leave on a child's first day of sickness: they are all included in the ordinary collective agreement (and are here linked to the seniority of the employee measured in months of employment), and no special agreements for temporary workers have been drawn up in relation to them.

In the protocol on temporary agency work added to the general collective agreement between the Confederation of Danish Industries (Dansk Industri, DI) and the Central Organisation of Industrial Employees in Denmark (CO-industri), employment in a temporary work agency is given a status equivalent to that in an ordinary company. This means that employees in temporary work agencies carrying out work for a DI company are covered by the general collective agreement between the DI and CO-industri. This means that there are no special agreements for temporary workers dealing with rights relating to employees' seniority.

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<sup>36</sup> LO trade unions hold divergent views on the Directive: those in industry, building and agriculture are more or less opposed to it, mainly because temporary agency work is regulated, whereas the largest union in services, HK, favours implementation of the proposal.

### 3. Organisations active in the sector

#### Employers' organisations

There are several employers' organisations that organise temporary work agencies, and which therefore conclude agreements that regulate the relationship between agencies and temporary agency workers in different ways. Against such a backdrop, it is difficult to give a precise estimate of the percentage of temporary work agencies that belong to an employers' association. However, it is presumably close to 50% and, according to DH&S, all the major agencies are members of one association or another. As it is possible for individual enterprises to make collective agreements with a trade union, the extent of collective agreements could be higher, but there is no central registration of the agreements made between individual companies and trade unions. When measured in turnover, organised temporary work agencies cover more than 80%.

The **DH&S (Dansk Handel & Service - Danish Commerce and Services)**<sup>37</sup> is the major employers' organisation for temporary work agencies in Denmark, and appears to be the main player in this field. It has negotiated collective agreements covering temporary work agencies with a number of different trade unions including the General Workers' Union of Denmark (SiD), the Danish Trade Union of Public Employees (FOA) and the Danish Nurses' Organisation (DSR); it has also concluded an agreement for temporary educational workers with the Danish Federation of Early Childhood Teachers and Youth Educators (BUPL), the National Federation of Social Educators (SL) and the National Union of Nursery and Childcare Assistants (PMF), and a collective agreement on supply teachers with the Danish Federations of Teachers (DL) and the Central Federation of Teachers (LC). The DH&S has also, on behalf of specific members, negotiated collective agreements with the Danish Union of Wood, Industrial and Building Workers (TIB), the National Union of Food and Allied Workers (NNF/dairy and NNF/baker) and the Danish Federation of Social Workers, and has reached traditional collective agreements with a number of trade unions: typically, these are collective agreements between the DH&S and trade unions covering work in a specific sector (e.g. office and warehouse functions), or else work carried out by employees who are union members. Temporary work agencies can use these general agreements, but they are often not applicable in specific situations. Protocols with a specific focus on temporary agency work are added to some of these general collective agreements: an example is the one concluded with the National Union of Commercial and Clerical Employees in Denmark (HK).

The two largest employers' associations in Denmark, the **DI (Dansk Industri - Confederation of Danish Industries)** and the **HTS (Handel, Transport og Serviceerhvervene - Danish Chamber of Commerce)**, also organise temporary work agencies, although they do not appear to play as important a role as the DH&S in the organisation of temporary work agencies. The DI and the HTS do not have specific information on the number of member agencies organised. The collective agreements cover temporary work agencies that are members of the regional or local branches of the two organisations, but unlike the DH&S, they do not have a special trade or employers' association for temporary work agencies. It is significant, though, that several of the medium-sized and larger temporary work agencies are members of more than one employers' association, due to the "triple nature" and cross-sectoral element of the employment relationship. The DI does not negotiate special collective agreements dealing with temporary agency work, but has added a protocol on temporary agency work to the general collective agreement with the Central Organisation of Industrial Employees in Denmark (CO-industri). This approach is also used by the HTS and the **Danish Construction Association (Dansk Byggeri)**, which have added a protocol on temporary agency work to the general collective agreement between themselves and the SiD.

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<sup>37</sup> The trade association, the **FVD (Foreningen af vikarbureauer i Danmark - Association of Temporary Work Agencies in Denmark)** is a member of the DH&S; its secretariat is located at the DH&S head office. The DH&S also provides FVD members with legal and other kinds of services, and conducts collective bargaining on behalf of them. This organisation has no power in bargaining.

## Workers' organisations

Trade union density in Denmark stands at around 80%. The unions do not normally log the types of employment contract held by their members, and this only exacerbates the difficulty of providing quantitative data on temporary agency work. Some of the collective agreements signed by workers' organisations are already set out in the section on employers' organisations.

The PMF (**Pædagogisk Medhjælper Forbund - National Union of Nursery and Childcare Assistants**) claims that TWAs have very little demand for unskilled child/youth educators: fewer than 100 people work as TAWs.

The BUPL (**Forbundet for pædagoger og klubfolk - Danish Federation of Early Childhood Teachers and Youth Educators**) has an agreement with the DH&S for 12 TWAs. The BUPL also has a collective agreement with 6 TWAs that are not DH&S members. According to the agencies in the DH&S, they are sent pay bills for an estimated 50-100 TAWs from the BUPL every 14 days.

In the SL (**Socialpædagogernes Landsforbund - National Federation of Social Educators**), most TAWs have other employment. There is a certain need for social educators among TWAs. The SL has collective agreements with 14 agencies, all of them members of the DH&S. One of them, the "Educational Temporary Work Agency" (Pædagogisk Vikarbureau), has won an EU award for its "communicating workforce": the manager of this agency says that he has 80-100 SL members on the 14-day payroll. The SL recommends that TAWs in membership only take jobs with agencies organised in the DH&S.

Nurses in the DSR (**Dansk Sygeplejeråd - Danish Nurses Organisation**) have collective agreements with 74 active TWAs. Most nurses that work for TWAs also have full-time or part-time employment; around 300 only have agency work. They all work under a collective agreement: the DSR has agreements with the DH&S, and with some municipalities and other public authorities including the Copenhagen Hospital Cooperation (H:S), and in May 2004, the H:S signed a contract with the ActivCare TWA to provide six metropolitan hospitals in the Cooperation with welfare, social and healthcare workers.

The FOA (**Forbundet af Offentligt Ansatte - Danish Trade Union of Public Employees**) is critical of the H:S agreement with ActivCare, because it comes out of the budget for the hospitals' internal temporary work system, although ActivCare has contacted the FOA for TAWs. The FOA is represented in a wide range of activities ranging from welfare and healthcare to kitchens, cleaning, technical services and educational activities. It has 159 TAWs in membership: 65 work under the collective agreement with the DH&S; the rest work in TWAs that are not DH&S members but have adoption agreements with the FOA.

Like other trade unions, the TIB (**Forbundet Trae-Industri-Byg i Danmark - Danish Union of Wood, Industrial and Building Workers**) does not recruit TAWs in particular, although the agreement that the TIB concluded with the Danish Construction Association in April 2004 focuses specifically on TAWs and TWAs.

The HK (**Handels- og Kontorfunktionærernes Forbund - Union of Commercial and Clerical Workers in Denmark**), the SiD (**Specialarbejderforbundet i Danmark - The General Workers' Union of Denmark**) and the NNF (**Nærings- og Nydelsemiddelforbundet - National Union of Food and Allied Workers**) do not recruit TAWs.

# DENMARK

## Elements relating to the organisations

### *Employers' organisations (2003 - Sources: the organisations)*

Organisation		Sub-sectors covered	Companies	TAWs	Density Companies	Density TAWs	CB	National affiliations		European affiliations		International affiliations	
Original name	English name		Number	Number	%	%	Yes/No	Direct	Indirect	Direct	Indirect	Direct	Indirect
DH&S - Dansk Handel & Service	Danish Commerce and Services	Trade and services	6,000 (140 active in the sector)	Min. 30,000*	48.6%** 24%***	n.a.	Yes	DA	No	Euro-CIETT	UNICE	CIETT	No
FVD - Foreningen af danske vikarbureauer	Association of Temporary Work Agencies in Denmark	TWA	13	10,000	n.a.	n.a.	No	DH&S	DA	No	Euro-CIETT	No	CIETT
DI - Dansk Industri	Confederation of Danish Industries	Manufacturing industry	n.a.	n.a.	n.a.	n.a.	Yes	DA		UNICE			
HTS - Handel, Transport og Serviceerhvervene	Danish Chamber of Commerce	Trade, transport and tourism	n.a.	n.a.	n.a.	n.a.	Yes	DA		UNICE			
Dansk Byggeri	The Danish Construction Association	Building and construction	n.a.	n.a.	n.a.	n.a.	Yes	DA		UNICE			

TAWs: temporary agency workers

Density companies: number of companies affiliated / total number of companies in the sector

Density TAWs: number of temporary agency workers in the affiliated companies / total number of temporary agency workers in the country

CB: Does the organisation take part in collective bargaining?

\* This figure covers the TAWs in active work in 2003. The number of TAWs attached to the agencies (the database of agency workers) is higher. Of these 30,000 in work 21,000 have TAW as their primary employment. This number is rising, which means that the sector is growing, and that this type of "atypical" employment is increasing among younger workers.

\*\* The figure is calculated on the basis that the number of self-employed workers is excluded since they cannot be members of an employers' association, although they can join a trade union. This results in a total of 288 agencies.

\*\*\* The figure corresponds to all companies, self-employed etc.

*Trade Unions (2003 - Sources: the organisations)*

Organisation		Types of TAW	Members	Members working as TAWs	Density	CB	National affiliations		European affiliations		International affiliations	
Original name	English name	Type	Number	Number	%	Yes/No	Direct	Indirect	Direct	Indirect	Direct	Indirect
PMF - Pædagogisk Medhjælper Forbund	The National Union of Nursery and Childcare Assistants	Unskilled childcare assistants	27,118	Under 100	n.a.	Yes	LO	No	No	ETUC	No	No
BUPL - Forbundet for pædagoger og klubfolk	Danish Federation of Early Childhood Teachers and Youth Educators	Youth educators	53,435	n.a.	n.a.	Yes	FTF	No	No	ETUC	No	No
SL - Socialpædagoger ogernes Landsforbund	The National Federation of Social Educators	Social educators	29,809	n.a.	n.a.	Yes	LO	No	No	ETUC	No	No
DSR - Dansk Sygeplejeråd	Danish Nurses' Organisation	Nurses	53,325	300 (where TAW is primary workplace)	n.a.	Yes	FTF	No	No	ETUC	No	No
SID - Specialarbejderforbundet i Danmark	The General Workers' Union of Denmark	Unskilled workers, chauffeurs and storage	317,625	n.a.	n.a.	Yes	LO	No	UNI-Europa (source: UNI-Europa)	ETUC	UNI (source: UNI-Europa)	No
HK - Handels- og Kontorfunktionærernes Forbund	Union of Commercial and Clerical Workers in Denmark	Salaried workers in shops and offices. IT Administration.	377,228	n.a.	n.a.	Yes	LO	No	UNI-Europa	ETUC	UNI-Europa	No
FOA - Forbundet af Offentligt Ansatte	Danish Trade Union of Public Employees	Welfare and healthcare, cleaning etc	194,841	159	0.53%	Yes	LO	No	No	ETUC	No	No



<b>TIB</b> – Fordundet Trae-Industri- Byg i Danmark	Danish Union of Wood, Industrial and Building Workers	Wood- workers	72,135	n.a.	n.a.	Yes	LO	No	EFBWW	No	No	No
<b>NNF</b> - Nærings- og Nydelsemid- delforbundet	National Union of Food and Allied Workers	Food processing industry	39,205	n.a.	n.a.	Yes	LO	No	EFFAT	ETUC	No	No

TAWs: temporary agency workers

Density: number of temporary agency workers affiliated to the organisation / total number of temporary agency workers in the country

CB: Does the organisation take part in collective bargaining?

# FINLAND

## 1. Description of the sector

### Legal framework and delimitation of the sector

According to the operational principles formulated by the Private Employment Agencies' Association, temporary work agencies may be defined as commercial companies as follows:

- they hire out professional staff to client companies (e.g. customer service, clerical and accounting, warehousing, transportation and or industrial staff);
- there is a special sector for performing artists;
- an agency may act as an employer, even when the client company has full managerial rights over the hired staff;
- alternatively, it can hire out staff for employment by clients;
- agencies can also provide other staffing services like employee testing, training and selection;
- staffing services tied to outsourcing and subcontracting form a key activity.

Finnish law does not lay down any special requirements for the establishment of a temporary work agency.

Temporary agency workers in Finland are employees of the temporary agency, and they are the so-called "external workers" of the client company (user company). There is no specific legislation covering temporary agency work; this means that agency work is not a distinct form of employment, and it follows that agency work must comply with mainstream labour law.

### Socio-economic features of the sector

The branch employs about 0.5% of the total Finnish workforce. Although the branch has grown, the number of employees has decreased from over 30,000 in 1999 to a little over 21,000 in 2003 according to a recent survey carried out by the Private Employment Agencies' Association<sup>38</sup>. This would mean that the length of the employment period has grown: this is shown in the rise in the number of working years<sup>39</sup> in the field (about 6,800 in 1999 compared with about 10,700 in 2003). The average length of an employment period is currently 64 days.

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<sup>38</sup> Numbers from different sources vary considerably: the lowest estimate is around 21,000 agency workers and the highest is over 50,000. The former figure is taken from a recent survey carried out by the Private Employment Agencies' Association, but a higher figure (of 40,000 agency workers) is used as a rough estimate later on in this report: this incorporates an assumption that no agency workers employed by more than one agency companies. This assumption is not technically correct, and it means that the actual number of agency workers is somewhat lower. The number of employees whose main source of income is temporary agency work has been estimated to be around 4,000. An important reason for a possible decrease in the number of agency workers could be structural (i.e. a degree of concentration of the sector resulting from many mergers).

<sup>39</sup> Hours and days have been converted to years using the number of average working days or hours in the sector: a short period + a short period + other factors = a working year

Most temporary agency work is carried out in office, accounting and information technology services (about 43% of workers employed by the branch and about 27% of working years). The second largest proportion is to be found in the service sector (sales and restaurants), which employs about 6% of workers in the branch, but accounts for about 22% of working years. Industrial work, warehousing and transportation employ about 41% of the workers, and their share of working years in the branch is about 43%. The field of healthcare is severely disadvantaged by the value-added tax system, especially when compared with private sector customers.

There are around 160 companies in the field of temporary agency work; the two largest are Varamiespalvelu Oy and Staffpoint Oy.

According to a recent survey carried out by the Private Employment Agencies' Association (Henkilöstöpalveluyritysten Liitto), turnover in the temporary agency work sector in 2003 was about EUR 360 million. The branch grew by approximately 44% compared with the previous year, when turnover was about EUR 250 million: this was due to the growth of companies and to the emergence of new businesses in the field.

However, this growth has been uneven, and the most significant increase in demand has occurred in companies that hire employees to work in transportation, building sites and industry. The increase was lowest in the sectors of office work and performing artists.

## 2. Social dialogue in the sector

According to the Employment Contracts Act, temporary work agencies have been obliged since 2001 to apply the user company's collective agreement to temporary agency workers on assignment; the only exception is where there is a collective agreement specifically covering agency work. This is a basic principle of equal treatment, the aim of which, among other things, is to guarantee wages and salaries that are equal to those earned by workers in the user enterprise<sup>40</sup>.

There are several specific collective agreements covering the temporary agency work sector. The main bargaining issues are wage levels, employment security and pay during maternity leave. The special features that mark all sectors with a large number of temporary or fixed-term employees also mark the temporary agency work sector. The employers' representatives stress that pay during maternity leave is a problem with all short employment periods, and in cases of accidents, there is also the problem of determining whether responsibility lies with the employee or the company hiring staff. Responsibility for any accidents or malpractice by the employee normally lies with the client company, unless other terms have been agreed in the employment contract. This is still somewhat unclear and there are no precedents.

Generally speaking, Finnish collective agreements are collectively binding, that is to say they apply to all employees and employers whether they are organised or not. A special tripartite board confirms a collective agreement's collectively binding status<sup>41</sup>. In addition, there are also about 650 collective agreements covering companies that hire out staff; however, these

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<sup>40</sup> There is a clause in the agreement that guarantees at least the same level of benefits as those enjoyed, for example, by other workers in the trade sector. This does not mean that the level is as high as for permanent workers, but it does mean, according to their agreement, that it is as high as the level for temporary agency workers in the sector. It may, or may not, be generally binding (e.g. locally binding or only binding on one company). Strictly speaking, the principle of equal treatment is only valid for agreements and labour contracts; it does not mean that there are no inequalities between temporary and permanent employees, or, for example, between men and women. Fixed-term contracts are clearly a problem for many workers in the temporary agency work sector.

<sup>41</sup> In practice, this board tries to check how many companies and employees are in the sector covered by an agreement (it often uses "Statistics Finland"). It then tries to calculate membership rates for the employees' and the employers' organisations: 50% is used as a rule of thumb, but the board is empowered to consider other things as well, such as the nature of the largest organisations.

agreements do not particularly deal with temporary agency work, but are general agreements for various fields of employment. Because of this, it is impossible to calculate the percentage of organised employees accurately, although employees in the temporary agency work are known to be younger than average, and it may therefore be estimated that about 50 – 60% of employees are organised<sup>42</sup>.

The employees' representative organisation considers the atmosphere in negotiations to be close to the way that Finnish labour market cooperation normally functions. There are no specific disputes on the horizon between the negotiating parties, and negotiations are unlikely to change much in the future. The employers' representative body also points to a recent easing in the atmosphere due to an improvement in the sector's reputation and in companies' operating practices. The employer body is trying to negotiate an agreement that would apply to all service sectors: talks have not yet been completed, but that is the objective.

### 3. Organisations active in the sector

#### Employers' organisations

Most temporary employment agencies are members of the **Private Employment Agencies' Association (Henkilöstöpalveluyritysten Liitto ry)**. Altogether 127 companies in the temporary agency field are members, that is to say about 80% of the total. Only programme agencies are not organised to such a high degree. All other major companies in the field are members, except for the largest, *Varamiespalvelu Oy*, which is not affiliated for historical reasons. The Private Employment Agencies' Association has been in existence since 1989, but has only been party to negotiations since 1999. It takes part in the tripartite incomes policy negotiations through its membership of the Employers' Confederation of Service Industries (PT)<sup>43</sup>. It has signed collective agreements for employees in "information technology services, accounting and clerical work" with the Federation of Special Service and Clerical Employees (ERTO) and for "restaurant musicians" with the Hotel and Restaurant Workers' Union and the Finnish Musicians' Union.

In co-operation with the central confederation, the Association looks after the branch's interests, and assists members in employment and industrial matters. The members have to comply with employment obligations and apply business ethics. The Association is funded by membership fees.

The clients of temporary employment agencies are companies buying services and other employer organisations and employees looking for jobs. Client companies can hire employees, recruit personnel and buy in other employment services.

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<sup>42</sup> This is a rough estimate based on many studies that show that about 50-60% of organised employees are young workers (i.e. under the age of 30). There are many reasons for the low rate of unionisation: one important reason is the fact that young people often have temporary, fixed-term contracts, and it is difficult for unions to recruit them; it is also possible to explain this low density in terms of such factors as a change in work culture. It is noteworthy that the employees' representative organisation, the Federation of Special Service and Clerical Employees (ERTO), has come up with an estimate of about 40%, while the employers' representative body, the Private Employment Agencies' Association (Henkilöstöpalveluyritysten Liitto), pitches it even lower at about 30%.

<sup>43</sup> The Employers' Confederation of Service Industries (PT) and the Confederation of Finnish Industry (TT) will merge into a new central organisation, the Confederation of Finnish Industries (EK) on 1 January 2005. It will be officially operational from the beginning of next year, but in practice it will already be functioning in autumn 2004. The new organisation represents all sectors, about 15,000 enterprises, approximately 70% of Finnish Gross National Product, and over 95% of Finnish exports. The member companies of the Confederation of Finnish Industries employ a total of 900,000 people.

As this report has already described, the largest company in the temporary work agency sector, Varamiespalvelu Oy, is not member of the Private Employment Agencies' Association; instead, it is affiliated to the **Service Sector Union (Palvelualojen toimialaliitto ry)**, which in turn is a member of the Confederation of Finnish Industry and Employers (TT). The agreements between the Service Sector Union and the Service Union United/the Construction Trade Union/the Chemical Workers' Union only apply to temporary agency workers inside these sectors if they are employed by Varamiespalvelu Oy, the only member company in the temporary agency field.

The **Finnish Hotel and Restaurant Association FHR (Suomen hotelli- ja ravintolaliitto ry SHR)** is an employers' association for the hotel, restaurant and tourist sector. It is a member of the Employers' Confederation of Service Industries (PT), and has about 2,200 member companies. A total of approximately 5,000 places of business are covered, and about 500 restaurant musicians (calculated in terms of working years) work in restaurants, hotels and ferries. The exact number is not available, and there is strong seasonal variation.

## Workers' organisations

Employees in the field are represented by the **ERTO (Federation of Special Service and Clerical Employees - Erityisalojen toimihenkilöliitto)**. It has 30,000 members, approximately 1,500 of whom work in the temporary agency work sector. ERTO members work in a number of fields including information technology services, new media, transport and freight forwarding, advertising agencies, market research, accounting offices, associations, small offices, private healthcare and social services. The ERTO is a negotiating party in those fields bound by collective agreements, and has signed an agreement in the temporary work agency sector with the Private Employment Agencies' Association. Salary recommendations are drawn up for sectors that are not covered by collective agreements. The ERTO is funded by membership fees.

The **Finnish Musicians' Union (Suomen Muusikkojen Liitto)** was founded in 1917. It represents professional musicians and has about 3,200 members: one third of them are orchestral players, soloists and conductors, and the remaining two thirds are restaurant, entertainment, jazz and rock musicians, DJs, and ballet dancers employed by the Finnish National Opera. The collective agreement for restaurant musicians covers about 500 people; there are about 350 unionised restaurant musicians. The existing collective agreement is generally binding.

The following organisations are the negotiating parties within the employers' organisation, the Service Sector Union: the **Construction Trade Union (Rakennusliitto)**, which is the only trade union organising and representing workers in different occupations in the building and construction industry and, with 81,000 members, is a large industrial union; the **Chemical Workers' Union (Kemianliitto)**, which is the trade union for workers in the chemicals, textiles, rubber and plastic sectors, and has about 35,000 members (agreements reached by these two unions include specific agreements with the Service Sector Union on temporary agency work); the exact number of temporary agency workers in these sectors is unknown; and the **PAM (Service Union United)**, which has 202,000 members, although only a small percentage are in the temporary agency work field, and the temporary agency work agreement only covers trade and hotel/restaurant work. The PAM started operating at the beginning of 2001. The founding unions of the PAM were the Union of Commercial Employees (Liikealan ammattiliitto), the Hotel and Restaurant Workers' Union (Hotelli- ja ravintolatyöntekijöiden liitto), the Union of Technical and Specialised Occupations (Teknisten- ja erikoisalojen liitto) and the Caretakers' Union (Kiinteistötyöntekijöiden liitto).

# Finland

## Elements relating to the organisations

### *Employers' organisations (2003 - Sources: the organisations)*

Organisation		Sub-sectors covered	Companies	TAWs	Density Companies	Density TAWs	CB	National affiliations		European affiliations		International affiliations	
<u>Original name</u>	<u>English name</u>		<u>Number</u>	<u>Number</u>	<u>%</u>	<u>%</u>	<u>Yes/No</u>	<u>Direct</u>	<u>Indirect</u>	<u>Direct</u>	<u>Indirect</u>	<u>Direct</u>	<u>Indirect</u>
Henkilöstöpalveluyritysten Liitto	Private Employment Agencies' Association	Temporary agency work	127	20,000	80	(60)	Yes	PT	No	Euro-CIETT	UNICE ESC, IOE, BIAC	CIETT	No
Palvelu-alojen toimialaliitto	Service Sector Union	TV/radio, IT sector, aviation, copy/printing, agency work etc	1	11,000	0.6	(30)	Yes	TT	No	No	UNICE, ESC, IOE, BIAC	No	No
Suomen hotellija ravintola-liittory SHR	Finnish Hotel and Restaurant Association FHR	Hotels and restaurants	n.a.	500	n.a.	(1,5)	Yes	PT	No	HOTREC	UNICE ESC IOE BIAC	No	No

TAWs: temporary agency workers

Density companies: number of companies affiliated / total number of companies in the sector

Density TAWs: number of temporary agency workers in the affiliated companies / total number of temporary agency workers in the country

CB: Does the organisation take part in collective bargaining?

### *Trade Unions (2003 - Sources: the organisations)*

Organisation		Types of TAW	Members	Members working as TAWs	Density	CB	National affiliations		European affiliations		International affiliations	
<u>Original name</u>	<u>English name</u>	<u>Type</u>	<u>Number</u>	<u>Number</u>	<u>%</u>	<u>Yes/No</u>	<u>Direct</u>	<u>Indirect</u>	<u>Direct</u>	<u>Indirect</u>	<u>Direct</u>	<u>Indirect</u>
ERTO - Erytysalojen toimihenkilöliitto	Federation of Special Service and Clerical	Clerical workers	30,000	1,500	5	Yes	STTK	No	UNI-Europa (source: UNI-Europa)	ETUC	UNI (source: UNI-Europa)	ICFTU

	Employees											
Suomen Muusikkojen Liitto	Finnish Musicians' Union	Musicians	3,200	350	1	Yes	SAK	No	NMU	ETUC	FIM	ICFTU
PAM	Service Union United	Service sector	20,200	n.a. *	n.a.	Yes	SAK	No	UNI-Europa	ETUC	UNI	ICFTU
Rakennusliitto	Construction Trade Union	Construction	81,000	n.a. *	n.a.	Yes	SAK	No	EMCEF	ETUC, NFS	IFBWW, ICEM	ICFTU
Kemian-liitto	Chemical Workers' Union	Chemical workers	35,000	n.a. *	n.a.	Yes	SAK	No	EMCEF	ETUC, NFS	ICEM	ICFTU

TAWs: temporary agency workers

Density: number of temporary agency workers affiliated to the organisation / total number of temporary agency workers in the country

CB: Does the organisation take part in collective bargaining?

\*: Agreements cover only temporary agency workers employed by Varamiespalvelu Oy

# FRANCE

## 1. Description of the sector

### Legal framework and delimitation of the sector

According to Article L.124-1 of the Labour Code, “a temporary work agency is any moral or physical person whose exclusive activity involves placing employees (whom it hires on the basis of agreed qualifications and pays accordingly) at the temporary disposal of users.” In order to facilitate the employment integration of unemployed workers who are encountering particular difficulties in finding work, a law of 3 January 1991 extended the scope of temporary work to include the integration of people experiencing such difficulties. However, under a special dispensation, the duration of the contracts of the temporary workers concerned may be extended to 24 months (including renewal), instead of 18 months (including renewal), which is what other temporary workers qualify for.

Article L.124-2-1 of the Labour Code now contains three broad cases of temporary work: replacement of absent employees, temporary peaks in an enterprise's activity, and the performance of temporary duties that are inherently temporary.

The conclusion of a temporary work contract is expressly banned in certain specific circumstances: the replacement of striking workers, the replacement of a medical adviser, the performance of particularly dangerous tasks<sup>44</sup>, and during the six months following redundancy if the use of temporary work is triggered by a temporary increase in activity<sup>45</sup>.

### Socio-economic features of the sector

On 31 December 2001, there were about 1,000 temporary work enterprises, and a total of 5,800 agencies with 21,498 employees. The French temporary work market is dominated by subsidiaries of large foreign groups, with the three leaders, Adecco, Manpower and Vedior Bis, handling 70% of the market<sup>46</sup>; they are followed by Crit and Synergie with under 10% of market share<sup>47</sup>. Generally speaking, the sector has undergone considerable concentration following the acquisition of enterprises.

In terms of employment, there was a total of 570,067 (whole-time equivalent) temporary workers in 2002, or 2.1% of the active population<sup>48</sup>. This figure represents 2 million people working under temporary work contracts during 2002. The year 2001 was a critical stage in the development of temporary work, with agency work stabilising after four years of strong growth. The 5.4% fall in temporary agency work in 2002 was partly explained by sluggish growth and partly by the observed process of de-industrialisation. In 2002, 90,200 jobs were

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<sup>44</sup> They are listed in the Labour Code.

<sup>45</sup> An exception may be made in the case of assignments lasting a maximum of three months.

<sup>46</sup> *La France des services 2003-2004*, INSEE, 2003.

<sup>47</sup> *Op cit.*

<sup>48</sup> Source: Ministry of Employment and Solidarity-DARES.



lost in industry, that is to say there was a 2.2% reduction in the number of people employed in one year. Temporary employment work, with more than half of its activity depending on industrial sectors, was directly affected by this process, but the most recent analyses indicate that, after falling for three quarters of 2003, the rise in employment confirmed in France during the final quarter is mainly due the sector's dynamism (up 37,000 at the end of the final quarter of 2003)<sup>49</sup>.

Temporary agency work is mainly done by men, who account for 70% of the total. The average age of male temporary workers in 2000 was 29. The structure of temporary agency is heavily dominated by blue-collar workers (81.8% in 2002), both skilled and unskilled, although other categories are tending to grow: in fact, although blue-collar workers are still overwhelmingly in the majority in the temporary agency sector, they have gradually been giving ground to managers since 1995. Temporary work agencies are trying to develop "high-level" temporary work, a dynamic market segment with substantial added value.

A distribution of temporary work in 2001 in whole-time equivalent terms by user sector shows that industry still occupies a dominant share: 49% by industry, compared with 17% by construction, 13% by services, 10% by trade, 7% by transport and 4% by others<sup>50</sup>. The use of temporary agency work in industry (7.6%) and construction (8.3%) continues to be higher than in the tertiary sector (2%)<sup>51</sup>. The four sectors that make most use of temporary agency workers are automotive manufacture, intermediary goods, equipment and agri-food.

## 2. Social dialogue in the sector

The temporary agency worker's employer is the temporary work agency, and it is with the agency that the worker signs an assignment contract, but the user firm is responsible for the conditions in which the work is carried out: these are set out in the legislation, regulations and collective agreements that apply to it, and cover working hours<sup>52</sup>, night working, the weekly rest period, public holidays, health and safety, and work performed by women, children and young people.

The principle of parity of pay for jobs must be applied. To this end, the availability contract and the assignment contract must indicate the salary that an employee with equivalent qualifications occupying the same post would receive in the user undertaking after a trial period without seniority. The law focuses on equal treatment. Furthermore, after an assignment, temporary agency workers qualify for an end-of-assignment allowance designed to compensate for the precariousness of their situation<sup>53</sup>. As for safety training, temporary agency workers benefit under common law provisions: a temporary agency worker assigned to a job presenting particular hazards has to be given enhanced safety training (costs to be borne by the user undertaking), and receive special treatment and information within the user firm. Under the same conditions as the user firm's employees, temporary agency workers are also entitled to the collective transport arrangements and collective (mainly catering) facilities for which these employees qualify.

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<sup>49</sup> DARES, *Premières informations*, No 15.1, April 2004.

<sup>50</sup> Direction de l'animation de la recherche, des études et des statistiques (DARES), *Premières synthèses*, 2001, quoted in *La France des services 2003-2004*, INSEE, 2003.

<sup>51</sup> Source: Ministry of Employment and Solidarity–DARES.

<sup>52</sup> However, with a view to adapting certain regulations to the specific situation of temporary workers, the CFDT, CFTC, CGT-FO, CGC and SETT signed an agreement relating to adjustments to, and reductions in, working hours on 27 March 2000. The agreement focuses on the application to temporary workers of the user's working-time organisation.

<sup>53</sup> Some trade unions claim that despite official equality between temporary workers and employees in terms of bonuses, these payments are not always made. The employers' organisation argues that this is due to lack of seniority.

Representation of temporary workers is organised within the temporary work agency. Temporary workers in temporary work agencies who have accumulated at least three months of assignments during the previous calendar year may vote in workplace-level elections (i.e. for works councils (comité d'entreprise) and workforce delegates (délégués du personnel)<sup>54</sup>. However, while engaged on their assignments, temporary workers may also, in the same conditions as the permanent salaried workers employed by that enterprise, approach workforce delegates in the user firm and raise grievances with them.

The user firm's workplace health and safety committee is authorised to deal with working conditions<sup>55</sup>.

Like other branches, the temporary work sector has organised many joint structures. The temporary agency work branch has a joint interpretation committee (the National Joint Temporary Agency Work Committee - Commission Paritaire Professionnelle Nationale du Travail Temporaire, CPPNTT) and the National Joint Employment Committee (Commission Paritaire Nationale de l'Emploi, CPNE).

All the social partners say that collective bargaining activity is carried out at branch level (in a dedicated committee called the Commission Mixte) and, with some exceptions, agreements are extended. Social dialogue is considered to be constructive, although the trade unions do not sign all the agreements.

The issue of discrimination against workforce delegates in assignment proposals is regularly raised by certain trade unions, particularly on the interpretation committee (CPPNTT).

The two main joint bodies at branch level are the FAF.TT and the Fastt. The task of the first of these, the Temporary Work Training Insurance Fund (Fonds d'Assurance Formation du Travail Temporaire, FAF.TT) is to collect some or all of temporary work agencies' mandatory contributions to further vocational training, and is involved in achieving the vocational training policy's objectives set out in branch agreements. The FAF.TT may also help temporary workers to design and draw up a vocational project, and advise enterprises on implementing their training plans and contracts covering alternating training schemes and work experience. The second body, the Temporary Work Social Action Fund (Fonds d'Action Sociale du Travail Temporaire, Fastt), is administered by the CGT, CFDT, FO, CGC and CFTC trade unions, and by the Union of Temporary Work Agencies (Syndicat des Entreprises de Travail Temporaire, SETT), and is funded by contributions from enterprises in the branch (0.146% of the total wage-sum of temporary work agencies). The Fastt provides temporary workers with services such as allowances to help them find accommodation, supplementary health cover, small loans, assistance with children's schooling and holidays, and social support. It presents itself as a body that is helping to put together a "social status" for temporary workers, thereby enabling them to qualify for social benefits "that are the same type as most employees are entitled to".

The FAF.TT and the Fastt are seen by all the social partners as extremely beneficial to temporary workers. Workers' organisations consider that they are very important in the regulation of the branch.

Other joint bodies include the employment fund (FPE.TT), the provident fund (Bayard-Prévoyance) and the complementary pension fund (IREPS).

Lastly, with regard to the development of negotiations within the branch, several trade unions point out that disagreements have already arisen over the level of seniority conditions underpinning entitlement to certain training measures, and over the value of the end-of-assignment allowance. Several unions have also expressed fears that branch- and enterprise-

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<sup>54</sup> To be eligible, a worker must have 6 months' seniority during the 18 months preceding the election. One trade union says that staff representation works well on works councils and staff delegations in large groups, but rather less so in small enterprises.

<sup>55</sup> The employers' organisation and the five workers' organisations signed an agreement on this matter on 26 September 2002.

level negotiations are now conducted on the basis of a “penny-pinching” logic, and that they are firmly guided by criteria of issues of minor importance, thereby undermining regulation of the entire sector<sup>56</sup>.

To sum up, the general principle is that temporary agency workers are covered by common law. In legal terms, temporary agency workers enjoy equal legal treatment comparable to that enjoyed by the user firm’s permanent salaried workers doing similar jobs. In addition to this legal protection, temporary workers have their own collective agreements that basically consist of a series of national collective agreements, and which are handled by temporary worker representatives within both the temporary work agency and the temporary work branch (i.e. the branch which is the level where nearly all agreements concerning temporary workers are signed).

### 3. Organisations active in the sector

#### Employers’ organisations

The **SETT (Union of Temporary Work Agencies - Syndicat des Entreprises de Travail Temporaire)** is the sector’s only employers’ organisation. It was founded in 1998, and came out of a merger of two existing organisations, the Promatt and the Unett. The SETT is funded by members’ contributions. Affiliates account for 95% of the sector’s turnover, and the Union estimates that it has 500 enterprises in membership, among both large groups (all of which are members) and small firms. This figure of 95% aligns well with the total number of assignments concluded in 2003 (14 million) and the figure of 550,000 (whole-time equivalent) temporary agency workers.

The SETT enjoys regional representation through its regional Presidents, but strictly speaking, it has no regional structure because of the highly concentrated nature of the sector.

#### Workers’ organisations

The trade unions recruit employees (members of staff and permanent salaried workers) in temporary work agencies and among temporary agency workers placed at the disposal of user firms. Temporary agency workers may also join the trade union in the user enterprise, and do so via the federation covering the user firm’s sector. It has not been possible to estimate the level of this kind of unionisation.

The **USI-CGT (Temporary Work Trade Union-CGT - Union Syndicale de l’Intérim-CGT)** consists of a Secretariat and an Executive Committee. It acts as a federating body for regional and departmental trade unions. Unlike other trade unions, the CGT is established in all the large groups, and in some small enterprises, mainly among temporary workers. It has at least 800 temporary workers in membership, and estimates that it may have as many as 1000: it is difficult to separate temporary workers who have joined local trade unions as separate union members from those in user firms.

The **Services Federation-CFDT (Fédération des Services-CFDT)** estimates that it has 1000-1500 members, most of them permanent salaried workers of temporary work agencies. It says that, apart from “turnover”, one of the difficulties of establishing a base among temporary agency workers is that they can join the union in the user firm, thereby coming under

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<sup>56</sup> The employers’ organisation points out that the sector has already signed major protected agreements, and a larger number of them than in other branches.

another federation, and running the risk of not knowing of the existence of measures specific to the temporary agency work sector such as the Fastt. The CFDT is well established in Adecco (it holds the secretaryship of all the works councils), but less so at Manpower, where an independent trade union has the majority. Of the 30 union delegates at Vedior Bis, 8 are temporary workers.

The **CGT-FO Temporary Work Sector Federation (Secteur Travail Temporaire de la Confédération CGT-FO)** deals with temporary workers and has “interprofessional” responsibilities (temporary workers come under the Confederation, but the Confederation does not pay the dues, and temporary workers join departmental unions and federations). Branch negotiations are therefore headed up by the temporary agency work sector, sometimes with a representative of the Federation of White-Collar Workers and Managers (Fédération des employés et cadres) in attendance. It follows that there is no proper temporary work federation for temporary workers. The Federation of White-Collar Workers and Managers-CGT-FO covers permanent salaried workers in temporary work agencies. The CGT-FO says that there has been census of temporary worker members because of the principle of autonomy of structures, and because the number of temporary workers fluctuates considerably. However, the union is well established among permanent salaried workers (all CGT-FO central union delegates are permanent salaried workers of temporary work agencies), and is now trying to reach temporary workers in user firms.

The **National Temporary Work Trade Union-CFTC (Syndicat National du Travail Temporaire-CFTC)** was founded two years ago within the Commerce, Services, Sales Force Federation-CFTC (Fédération Commerce, Services, Force de Vente-CFTC). Temporary work had previously come under the CFTC’s Federation of White-Collar Workers, Managers, Technicians and Supervisors (Fédération des Employés Cadres Techniciens et Agents de Maîtrise). Until recently, the CFTC was mainly established among permanent salaried workers, but now, following an agreement allowing leaflets to be sent to temporary workers outside the period of elections, the union has 20 union delegates who are temporary workers, and 17 who are permanent salaried workers. The CFTC says it is very difficult to estimate representativeness. It believes that it “represents on average 10-15% of voting intentions among temporary workers, and 30-40% among permanent salaried workers”. It is established in the most important large companies.

The **National Federation of Management, Commerce and Services-CFE-CGC (Fédération Nationale de l’Encadrement, du Commerce et des Services-CFE-CGC)** is not well established in the sector, and not even among permanent salaried employees of temporary work agencies. In membership terms, it estimates it comes just behind the CFTC. The Federation emphasises that temporary agency managers are very difficult to approach because they are voluntarily “sidelined” by temporary work enterprises (separate agencies, and hardly any information available on these workers in temporary work agencies).

# France

## Elements relating to the organisations

### *Employers' organisations (2003 – Sources: the organisations)*

Organisation		Sub-sectors covered	Companies	TAWs	Density Companies	Density TAWs	CB	National affiliations		European affiliations		International affiliations	
<u>Original name</u>	<u>English name</u>		<u>Number</u>	<u>Number</u>	<u>%</u>	<u>%</u>	<u>Yes/No</u>	<u>Direct</u>	<u>Indirect</u>	<u>Direct</u>	<u>Indirect</u>	<u>Direct</u>	<u>Indirect</u>
SETT - Syndicat des Entreprises de Travail Temporaire	Union of Temporary Work Agencies		500	n.a.	50%	n.a. (95%)	Yes	Medef, CGPME	No	Euro CIETT	No	CIETT	No

TAWs: temporary agency workers (% of the total number of assignments concluded in the sector in 2003)

Density companies: number of companies affiliated / total number of companies in the sector

Density TAWs: number of temporary agency workers in the affiliated companies / total number of temporary agency workers in the country

CB: Does the organisation take part in collective bargaining?

### *Trade unions (2003 – Sources: the organisations)*

Organisation		Types of TAW	Members	Members working as TAWs	Density	CB	National affiliations		European affiliations		International affiliations	
<u>Original name</u>	<u>English name</u>	<u>Type</u>	<u>Number</u>	<u>Number</u>	<u>%</u>	<u>Yes/no</u>	<u>Direct</u>	<u>Indirect</u>	<u>Direct</u>	<u>Indirect</u>	<u>Direct</u>	<u>Indirect</u>
USI-CGT - Union Syndicale de l'Intérim-CGT	Temporary Work Trade Union-CGT	All	+/- 1,050 (including 50 permanent salaried workers)	+/- 1,000	n.a.	Yes	CGT	No	No	ETUC	No	No
Fédération des Services-CFDT	Services Federation-CFDT	All	1,000 to 1,500 mainly permanent salaried workers)	n.a.	n.a.	Yes	CFDT	No	UNI-Europa	ETUC	UNI	No
Secteur Travail Temporaire CGT-FO	Temporary Work Sector Federation	All	n.a.	n.a.	n.a.	Yes	CGT-FO	No	UNI-Europa	ETUC	UNI	ICFTU

Syndicat National du Travail Temporaire-CFTC	National Temporary Work Trade Union	All	n.a.	n.a.	n.a.	Yes	CFTC	No	No	ETUC	No	No
CFE-CGC Fédération Nationale de l'Encadrement, du Commerce et des Services	National Federation of Management, Commerce and Services	All	n.a.	n.a.	n.a.	Yes	CFE-CGC	No	No	ETUC	No	No

TAWs: temporary agency workers

Density: number of temporary agency workers affiliated to the organisation / total number of temporary agency workers in the country

CB: Does the organisation take part in collective bargaining?

# Germany

## 1. Description of the sector

### Delimitation and activities of the sector

The definition of temporary agency work in Germany is based on the definition given by Donald Storrie<sup>57</sup>: "The temporary worker is employed by the temporary work agency, and is then, via a commercial contract, hired out to perform work assignments at the user firm."

Temporary agency employment is allowed in all sectors except the construction industry. There are no other situations or cases in which temporary agency workers are not allowed.

Temporary employment legislation was altered radically by recent labour market reforms in 2002<sup>58</sup>. Two major amendments were introduced:

- one relates to the employment and working conditions of temporary agency workers during their assignment time: in an attempt to establish the Equal Pay and Treatment Principle in a TAW (temporary agency work) sector even more regulated than before, they have to be granted the same working conditions and pay as comparable employees in the user firm. Exceptions to the principle are only allowed when there is a valid collective agreement for the TWA (temporary work agency);
- the other one concerns the fixed-term employment and dismissal provisions in the Temporary Employment Act. Prior to the labour market reform, it was forbidden to limit the length of a temporary employee's contract to the duration of his/her assignment (the so-called "synchronisation ban"). The aim of this rule was to prevent TWAs from shifting the risk of assignment-free periods to the employee, but documentation shows that the abolition of these limitations cannot be seen as deregulation. The fixing of contract duration will be regulated by Section 14 of the Part-Time and Fixed-Term Employment Act (Teilzeit- und Befristungsgesetz), which states that there is virtually no way that an employment contract can be fixed more than three times, or for longer than two years (four times within two years in the BZA collective agreement).

Special development in the sector:

The 2002 reform also provided for the creation of temporary work agencies of a new kind called personnel service agencies (Personal-Service-Agenturen, PSAs) throughout the country, and by the end of 2003, every regional office of the Federal Employment Service (Bundesagentur für Arbeit) had concluded agreements with PSAs to cooperate in the placement of unemployed workers. During the first three months of employment, the PSA receives 100% of an agreed, case-based lump sum for every employee sent by the Federal Employment Service, and the monthly payment subsequently decreases to zero during the following six months, but if the PSA is able to place a temporary agency worker in a regular employment contract subject to social insurance contributions, it receives another bonus payment. By October 2004, there were 883 placements with PSAs and 27,552 temporary agency workers. The danger of PSAs lies in the possible displacement of regular temporary agency employment because subsidised PSAs have a competitive advantage over TWAs in that they are able to assign workers for less money and earn more. This is especially questionable if PSAs do not contract workers from problematic target groups such as the long-term unemployed or

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<sup>57</sup> Storrie, Donald (2002): Temporary agency work in the European Union. European Foundation for the Improvement of Living and Working Conditions.

<sup>58</sup> These labour market reforms are known as "Hartz" laws, because they were drawn up by a commission chaired by Peter Hartz, a member of the Volkswagen (VW) Executive Board. Temporary agency work is governed by the Temporary Employment Act (Arbeitnehmer-überlassungsgesetz (AÜG)).

the disabled. After the subsidised nine-month period is over, there is an additional danger that the PSA will simply exchange the non-subsidised temporary worker for a new subsidised one.

### **Socio-economic features of the sector<sup>59</sup>**

There were 14,405 TWAs in June 2003<sup>60</sup>. Most TWAs are small and medium-sized (96.3% have fewer than 200 employees); but they employ only 75.6% of temporary agency workers. The few large TWAs (3.7%) with more than 200 workers employed 24.4% of all temporary agency workers.

In June 2003, the temporary agency work sector in Germany reached 1.21% of total employment (TWAs employed 327,331 temporary workers). The last 20 years have seen a sharp increase in the number of workers (from 15,415 in January 1983 to over 300,000 today), but compared with the early 1990s, the recent period has been marked by stagnation of the sector caused by a general economic slowdown.

There is a geographical spread of temporary agency work: some regions like Hesse, Saarland and Bremen use more temporary agency workers than other regions such as Baden-Württemberg and Berlin-Brandenburg. Only 12.6% of assignments last less than one week, and over 43.4% of the temporary workers are hired for longer than three months.

Most temporary workers (31.6%) were hired as unskilled labour without any specified occupation or task. Temporary workers with a specific occupation were mainly contracted as mechanics (16.7%) and office or administrative personnel (9.4%). The sector is dominated by male workers (77.5%). In 2000, most temporary agency workers are under 34 years of age. As far as TAWs' qualifications and professional status are concerned, there was a considerable difference between men and women in 2000: men were mainly blue-collar workers (86.5%) with low qualifications, and women were mostly employed as white-collar workers (50.7%) and had higher qualifications.

In terms of wages and working conditions, there are differences between temporary agency workers and salaried workers: in the sector as a whole, TAW wages are on average 20% lower than those for salaried workers, and the working week is about 35 hours; there are also differences between collective agreements in matters such as allowances and extra pay for overtime and for travelling long distances to the workplace.

Temporary agency workers are used by only 6% of all small firms (i.e. with fewer than 10 workers) and 39.8% of all large firms (i.e. more than 1,000 workers) in the west, and by 22.2% in the east.

Lastly, in June 2003, most temporary agency workers were trying to escape from unemployment by using TWAs as a stepping-stone or gateway to a regular job, 66.6% of newly hired temporary agency workers having previously been unemployed or never having worked before. Only 20.9% moved from other forms of employment into temporary agency work.

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<sup>59</sup> Sources: Bundesagentur für Arbeit and Dormann, F. (2001): *Entwicklung der Zeitarbeit in Deutschland 1995-2000*, Bonn.

<sup>60</sup> The "Bundesagentur für Arbeit" statistics distinguish between companies that have the temporary agency work sector as their main activity and mixed companies that only occasionally assign temporary workers. In December 2000, there were 12,500 TWAs (with 337,845 workers) of which 6,703 were mixed TWAs (54,845 workers) and 5,797 TWAs (283,000 workers) with temporary agency work as their main activity; of these, 5,797 were 3,813 TWA head offices, and 1,946 were branches.



## 2. Social dialogue in the sector

As this section has already pointed out, collective agreements for temporary workers have been in existence since 2003<sup>61</sup>. If an employer has no valid agreement, the working conditions for salaried workers in the user firm's sector apply (Equal Pay and Equal Treatment Principle).

Since the recent labour market reforms, collective bargaining in the temporary work sector has been bipartite<sup>62</sup> and centralised. The agreements concluded at national level are generally valid for the whole sector. Until the reforms, there had been only a few company agreements, and they represented a very small percentage of TAWs.

Unusually, collective agreements for temporary agency workers are not concluded by sectoral unions. Indeed, because TAWs work in all sectors of the economy, they were represented in recent collective bargaining rounds by their lead organisations, the German Federation of Trade Unions (DGB), and its Christian counterpart, the Christian Trade Union Federation (CGB). Six organisations took part in collective bargaining on behalf of the employers (see point 3).

Apart from some company agreements, six national collective agreements were signed for 2003 and 2004<sup>63</sup>: two were concluded by the DGB, three by the CGB, and one was signed by the UIS and the IGBAU. In terms of coverage, according to information supplied by the trade unions and employers' associations, approximately 200,000 employees are covered by the DGB and BZA/IGZ agreements, and about 100,000 are covered by the CGB agreements. This means that altogether around 100% of employees are covered. It is not possible to give information on the types of worker covered because no such data are collected. There are no official procedures for extending collective agreements to non-unionised TAWs or non-organised TAWs but, as has already been pointed out, because of the equal pay principle, employers and employees are better off implementing an agreement of their choice.

Bargaining issues have included pay scales and pay raises, overtime pay, Christmas and holiday benefits, and other allowances, working time and working time conditions, holidays and probation periods. In all agreements there are regulations on job security. Issues that are content-specific to the sector are payments for employees who have to travel for more than 1.5 hours to the user firm, and the different wages paid if the workers are "free" (i.e. they are not in a user firm but are still employed by the TWA). Tensions have risen particularly over the determination of hourly rates of pay and pay scales. The agreements signed by the CGB, the MVZ (Association for small temporary work agencies), the INZ (Syndicate of North Bavarian Temporary Work Agencies) and the BVD (Association of German Services Companies) also include lower pay levels than those signed by the DGB, the IGZ (Association of German Temporary Work Agencies) and the BZA (Federation of Temporary Work Agencies). This has resulted in a kind of inter-union competition.

Lastly, the main obstacles to the development of the sector's fledgling social dialogue are a fear on the part of employers' organisations that competitiveness will be lost if the sector becomes highly regulated by collective agreements and laws, the fact that trade union attitudes towards temporary work in the past have been rather negative because work conditions and pay have been worse than for regularly employed workers, and the failure to rectify this situation through recent agreements. However, both sides agree that the current situation with collective agreements is better than having no agreement at all.

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<sup>61</sup> It was the first time in German history that national collective agreements had been concluded for the temporary work sector.

<sup>62</sup> There was huge political pressure on the trade unions to bargain. Workers in the temporary work sector would have been better off if they had been paid according to the Equal Pay Principle, but the government feared for the sector's competitiveness if the unions were unwilling to agree on the option to pay lower wages.

<sup>63</sup> There were no collective agreements in 2002.

### 3. Organisations active in the sector

#### Employers' organisations

The employers' organisations INZ and MVZ are in the process of negotiating a merger. The collective agreement between the CGB and the MVZ achieves coverage of approximately 35% of all German temporary work agencies and PSAs. The INZ estimates it has a coverage rate at 30% (500 TWAs and PSAs with 100,000 workers).

The largest employers' organisation is the **iGZ e.V (Association of German Temporary Work Agencies - Interessenverband Deutscher Zeitarbeitsunternehmen)**. This relatively young organisation mainly covers medium-sized enterprises in the temporary work sector (TWS). In addition to taking part in collective bargaining, the Association helps its members to implement new conditions, and particularly new conditions relating to pay.

The **BZA (Federation of Temporary Work Agencies - Bundesverband Zeitarbeit Personal-Dienstleistungen e.V)** covers about 1,800 member firms of all sizes and in all branches. For more than thirty years it has been an established employers' association of licensed Temporary Work Businesses (TWBs). Of all the TWB associations, the BZA is the keenest on shaping and further developing framework conditions for the industry.

The **MVZ (Association for Small Temporary Work Agencies - Mittelstandsvereinigung Zeitarbeit e.V.)** was founded to represent the interests of TWBs with 500 and fewer employees. In the MVZ's view, they had not previously been well represented.

The **INZ (Syndicate of North Bavarian Temporary Work Agencies - Interessengemeinschaft Nordbayerischer Zeitarbeitunternehmen e.V.)** was founded in 1987, mainly to represent the interests of small and medium-sized TWBs in Bavaria. It signed the sector's first collective agreement, and is now organising enterprises nationally.

The **BVD (Association of German Services Companies - Tarifgemeinschaft Zeitarbeitsunternehmen im BVD – Bundesvereinigung Deutscher Dienstleistungsunternehmen)** is an association of TWBs in the German Association of Services Businesses that adapts collective agreements in the services sector to the needs of TWBs.

The **UIS (Employers' Organisation for Services and Industry Services - Unternehmerverband IndustrieService + Dienstleistungen e.V.)** has attempted since 1994 to develop new concepts for collective bargaining in the services sector, especially in industry-based services like the metal, chemical and construction industries.

#### Workers' organisations

The **DGB (German Federation of Trade Unions - Deutscher Gewerkschaftsbund)** is made up of eight member unions and, with 7.4 million members, is Germany's dominant central confederation. All of its affiliated unions have members in the TWS and it covers all sectors of the economy, blue- and white-collar workers, and executive and skilled occupations. As a lead organisation, the DGB does not sign individual sectoral collective agreements, but because of the TWS 's special features, it signed the agreements as an association of its member unions.

The **CGB (Christian Trade Union Federation - Christlicher Gewerkschaftsbund)** comprises 16 member unions with about 300,000 members altogether. All of its affiliated unions have members in the TWS, and it covers all types of worker and all sectors. As a lead organisation, the CGB is not itself involved in collective bargaining; indeed, six of its members founded the Association of Christian Trade Union Temporary Work and Personal Services Agencies (CGZP) to engage in the collective bargaining process.

## GERMANY

### Elements relating to the organisations

*Employers' organisations (2004 – Source: the organisations)*

Organisation		Sub-sectors covered	Companies	TAWs	Density Companies	Density TAWs	CB	National affiliations		European affiliations		International affiliations	
Original name	English name		Number	Number	%	%	Yes/No	Direct	Indirect	Direct	Indirect	Direct	Indirect
<b>IGZ</b> - Interessenverband Deutscher Zeitarbeitsunternehmen	Association of German Temporary Work Agencies	All sectors	750 head office TWAs and 1,811 branches	100,000	+/-25%	n.a.	Yes	DGVM, VDSDG, VBG	No	No	UNICE	No	BIAC, IOE
<b>BZA</b> - Bundesverband der Zeitarbeit Personal-Dienstleistungen e.V.	Federation of Temporary Work Agencies	All sectors	Over 1,800 branches	100,000	+/-30%	n.a.	Yes	BDA, VBG, AWM, BPV*	n.a.	Euro-CIETT	UNICE	CIETT	BIAC, IOE
<b>MVZ</b> - Mittelstandsvereinigung Zeitarbeit e.V.	Association for Small Temporary Work Agencies	All sectors	450	45,000	Approx 7.5%	n.a.	Yes	Planned: BDA	No	No	UNICE	No	BIAC, IOE
<b>INZ</b> - Interessengemeinschaft Nordbayerischer Zeitarbeitunternehmen e.V.	Syndicate of North Bavarian Temporary Work Agencies	Especially sectors with higher qualifications	330	40,000	Approx 7.5%	n.a.	Yes	Planned: BDA	No	No	UNICE	No	BIAC, IOE
<b>BVD</b> - Tarifgemeinschaft Zeitarbeitsunternehmen im BVD – Bundesvereini	Association of German Services Companies	Service Sector	n.a.	n.a.	n.a.	n.a.	Yes	BDA	No	No	UNICE	No	BIAC, IOE

gung Deutscher Dienstleistung sunternehmen													
UIS - Unternehmerge rband IndustrieService + Dienstleistung n e.V.	Employers' Organisation for Services and Industry Services	Industry services	60	n.a.	n.a.	n.a.	Yes	UVG	No	No	No	No	No

TAWs: temporary agency workers covered by the collective agreement signed by the organisation

Density companies: number of companies affiliated / total number of companies in the sector

Density TAWs: number of temporary agency workers in the affiliated companies / total number of temporary agency workers in the country

CB: Does the organisation take part in collective bargaining?

\* : only cooperation

#### *Trade unions (2003 – Source: the organisations)*

Organisation		Types of TAW	Members	Members working as TAWs	Density	CB	National affiliations		European affiliations		International affiliations	
Original name	English name	Type	Number	Number	%	Yes/No	Direct	Indirect	Direct	Indirect	Direct	Indirect
DGB - Deutscher Gewerkschaft sbund***	German Federation of Trade Unions	Blue-collar and white- collar	7,363,147	n.a. (200,000)	n.a.	Yes	No	No	ETUC	No	ICFTU	No
IGBAU	Union of Construction, Agriculture and Environment	Mainly blue- collar	461,162	n.a.	n.a.	(Yes)*	DGB	No	EFBWW, EFFAT, UNI-Europa (source: UNI-Europa)	ETUC	IFBWW, IUF, UNI (source: UNI-Europa)	ICFTU
GEW	Education and Science Union	White-collar	260,842	n.a.	n.a.	(Yes)*	DGB	No	EI	ETUC	EI	ICFTU
IG Metall	Metal Industry union	Mainly blue- collar	2,525,348	n.a.	n.a.	(Yes)*	DGB	No	EMF, EFBWW	ETUC	IMF, IFBWW	ICFTU
NGG	Food, Drink, Tobacco and Catering Union	Mainly blue- collar	236,507	n.a.	n.a.	(Yes)*	DGB	No	EFFAT	ETUC	IUF	ICFTU
GdP	Police	Mainly	181,100	n.a.	n.a.	(Yes)*	DGB	No	EUROCOP	ETUC	No	ICFTU

		white-collar										
TRANSNET	Transnet Railway Workers	Mainly blue-collar	283,332	n.a.	n.a.	(Yes)*	DGB	No	ETF	ETUC	ITF	ICFTU
Ver.di	United Services Union	Mainly white-collar	2,614,094	n.a.	n.a.	(Yes)*	DGB	No	EPSU, ETF, EFJ, UNI-Europa	ETUC	IFJ, PSI, ITF, UNI	ICFTU
IGBCE	Mining, Chemical and Energy Industrial Union	Mainly blue-collar	800,762	n.a.	n.a.	(Yes)*	DGB	No	EMCEF	ETUC	ICEM	ICFTU
CGB - Christlicher Gewerkschaftsbund	Christian Trade Union Federation	Blue-collar and white-collar	300,000	n.a.	n.a.	No	No	No	CESI	No	n.a.	No
CGZP***	Association of Christian Trade Union Temporary Work and Personal Services Agencies	Blue-collar and white-collar	n.a.	n.a. (100,000)	n.a.	Yes	CGB	No	CESI	No	No	No
Bund der Hotel-, Restaurant- und Cafe-Angestellten	Union Ganymed	Mainly white-collar	n.a.	n.a.	n.a.	(Yes)**	CGB	No	n.a.	CESI	n.a.	n.a.
CGM	Christian Metal Industry Union	Mainly blue-collar	n.a.	n.a.	n.a.	(Yes)**	CGB	No	n.a.	CESI	CMT-WCL, WAI	n.a.
CGPT	Christian Post and Telecommunication Union	Blue-collar and white-collar	n.a.	n.a.	n.a.	(Yes)**	CGB	No	n.a.	CESI	n.a.	n.a.
DHV	German Association of Trade and Industry	Mainly white-collar	80,000	n.a.	n.a.	(Yes)**	CGB	No	n.a.	CESI	WBA	n.a.
GöD	Public	Mainly	n.a.	n.a.	n.a.	(Yes)**	CGB, dbb-	No	n.a.	CESI	n.a.	n.a.

	Services Union	white-collar					Tarifunion					
VdT	Federation of German Technicians	Mainly blue-collar	n.a.	n.a.	n.a.	(Yes)**	CGB	No	n.a.	CESI	n.a.	n.a.

Members working as temporary agency workers: in () = number of temporary agency workers covered by the collective agreement signed by the organisation.

Density: number of temporary agency workers affiliated to the organisation / total number of temporary agency workers in the country

CB: Does the organisation take part in collective bargaining?

\* : indirect involvement through DGB

\*\* : indirect involvement through CGB

\*\*\*: direct accepted bargaining agent on behalf of employees

# GREECE

## 1. Description of the sector

### Legal framework and delimitation of the sector

Until recently, the private recruitment industry in Greece was almost non-existent, and what did exist was unregulated. Only the public employment service, the Labour Force Employment Organisation, was officially authorised to provide placement services. Private employment agencies were first established as late as 1998 by Law 2639/98. This institutionalised the operation, which had up till then been informal, of Private Job Counselling Agencies, albeit for only ten categories of worker such as artists, models, tourist guides, cleaners, construction workers, accountants and consultants. These agencies were the closest one could get to temporary agency work, although they only acted as intermediaries in placement services and did not have any contractual relationship with the workers. The way in which these private placement offices functioned was further regulated following the introduction of Law 2874/2000, which stipulated stricter rules: 59 applications to open Private Job Counselling Agencies have so far been approved by the Ministry of Labour.

The most important piece of legislation regarding the private recruitment industry was introduced in 2001, when Law 2956/2001 on the Restructuring of the Labour Force Employment Organisation came into effect. This legislation was an attempt to regulate the informal operation of temporary work agencies and to improve the employment conditions of temporary workers. It lays down specific rules regarding the establishment and operation of Temporary Work Agencies<sup>64</sup>, whose main area of activity is the provision of labour that has been recruited by TWAs for a third party (the user company), and for a limited period of time. The law also regulates the employment conditions of workers employed through TWAs (i.e. remuneration, duration of contract, social insurance rights, occupational health and safety and trade union rights). The working contract, which can be either fixed-term contract or of indefinite duration<sup>65</sup>, is therefore concluded between the TWA (which is the direct employer) and the employee.

There are no exceptions in respect of skills or occupations that can be covered by temporary workers, but public sector jobs are excluded since the recruitment procedure is governed by special legislation<sup>66</sup>. Moreover, a user company cannot employ a worker recruited by a TWA to replace regular staff who are on strike, or if the company collectively dismissed workers with the same qualifications in the previous year.

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<sup>64</sup> Temporary Work Agencies must hold a special licence that is awarded by the public authorities (the Minister of Labour, following an opinion from the Temporary Work Control Committee) to agencies that fulfil the legal requirements: these include share capital of at least EUR 176,000, financial guarantees (indemnity bonds) safeguarding the pay and social security contributions for employees who are recruited, and the business status of a Société Anonyme (public limited company). Authorised TWAs are not allowed to offer their clients any type of service other than that of intermediary between job-seekers and employers looking for workers, and labour force evaluation and/or training.

<sup>65</sup> Even though it is permitted under the law (Article 22(1)), in practice, there are no indefinite duration contracts, because they are costly for the TWAs.

<sup>66</sup> The recruitment procedure in the public sector does not allow private companies to be involved in the selection of employees, even for fixed-term contracts.

## Socio-economic features of the sector

The contribution of TWAs to job creation is hard to establish, as there are no aggregate data on the number of temporary workers employed through them, although it is estimated that it is still extremely low (around 0.2% of total employment). Ministry of Employment and Social Protection data show that a total of 5,664 contracts were concluded through TWAs during 2003: 2,319 in the first six months, and 3,043 during the second six months<sup>67</sup>. The activity sectors that use TWAs most are the rural sector, followed by the service industry, trade and manufacturing<sup>68</sup>.

No study has yet been made of the profile of temporary agency workers in Greece. Only one company, Adecco Hellas, which works in the field of human resources and is one of the largest TWAs, brought out a report in April 2004 that contained information on the agency workers that the company had recruited. Adecco placed a total of 3,503 agency workers, 1,646 men and 1,857 women, in temporary jobs in the Athens metropolitan area during 2003; they covered over 70 different qualifications, and most were placed in low- and semi-skilled jobs, mainly as office personnel (36.3%), sales staff (7.5%), storekeepers (6.4%), warehouse personnel (6%) and switchboard operators (55.8%). It is worth noting that just over half of these workers (51%) had contracts lasting less than 1 month, while 30% had contracts of 1-3 months; only 19% had contracts that lasted any longer. Most of these workers (70%) were between 21 and 30 years of age, 77% had previously been unemployed.

Despite the fact that temporary agency work seems to be a viable solution for integrating and increasing segments of the workforce (e.g. people living off undeclared work, and unemployed workers including like women and young people), it is also clear that the temporary employment option is often forced on labour market entrants as, by comparison with regular employees, temporary workers face a number of serious disadvantages. These include: access mostly to casual jobs of very short duration; precarious employee status; no access to basic employment rights such as unemployment benefit, maternity leave, annual paid holidays, productivity bonus and fringe benefits; inadequate and discontinuous social security coverage; low career prospects; inadequate training opportunities; and no collective representation.

The number of private placement services has gradually increased during the last two years: the Ministry of Employment and Social Protection has so far issued licences for ten temporary work agencies.

The temporary agency work market in Greece seems to have excellent growth prospects, and in part to cover for the inadequacies of the public employment services<sup>69</sup>. Indeed, despite the extremely low incidence of temporary agency work in Greece at present, this form of employment is expected to grow rapidly in the coming years as temporary work begins to appeal to a growing number of private companies facing a complicated, expensive overtime system and apparently willing to replace regular workers doing overtime with temporary workers<sup>70</sup>. The restrictions introduced in 2000 on the use of overtime and the increased cost of overtime pay have convinced many companies that hiring temporary staff might be more cost-

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<sup>67</sup> Temporary workers can sign more than one contract, so the number of contracts does not correspond to the number of agency workers.

<sup>68</sup> Agrapidas, C., 2004, "Temporary Work in the USA, Europe and Greece: the case of TWAs", PhD thesis, submitted to the Department of Sociology, at the Panteion University of Social and Political Sciences, Athens

<sup>69</sup> Although no hard evidence exists on the agencies' share of the market, it is estimated that most placements are carried out by the two leading TWAs in Greece, Adecco Hellas and Manpower, which are the national branches of two of the largest staffing companies worldwide.

<sup>70</sup> It is worth noting that the Labour Inspectorate approved over 5 million hours of overtime during 2000.



effective than employing existing workers for longer hours. Moreover, many companies see temporary work (i.e. outsourcing labour relations and expenses to third parties) as a way of reducing labour costs (especially indirect costs, which are seen as very high in Greece because employers' social security payments are expensive).

## 2. Social dialogue in the sector

Temporary agency workers are not covered by a specific collective agreement, and employers' and employees' organisations do not include this category of worker in their annual deliberations as they move towards conclusion of the collective labour agreement. As temporary agency work has only recently been institutionalised in Greece, and because of the extremely small number of workers involved and the erratic nature of agency work generally, social dialogue in the sector has not yet been established. This means that agency workers are more vulnerable than regular employees to abuses and to breaches of their employment rights by their direct or/and indirect employer (the user company). The most frequently reported abuse concerns job descriptions included in the contract made between the agency worker and the TWA: it is normal for them to be left intentionally vague so as to cover a broad range of duties, or else they do not correspond to the employee's real qualifications or the services to be provided. Unions seem to be slow off the mark in reacting to this new phenomenon and in drawing up proposals for improving the conditions of employment of temporary workers.

As far as wages and collective agreements are concerned, the remuneration of temporary agency workers cannot fall below the basic rates set out in the sectoral or occupational agreement that applies to the regular personnel working with the user firm, and under no circumstances can wages fall below the minimum rates contained in the National General Collective Labour Agreement (NGCLA). An employee recruited by a TWA who is not working for a user company must also be paid the minimum NGCLA rates. Temporary workers' insurance rights are guaranteed by the same provisions that apply to regular staff working for the user company<sup>71</sup>.

The main issues at stake between the employers' organisations and the trade unions are the desired duration of a temporary contract and the extent of restrictions imposed by legislation on agency work<sup>72</sup>. On the employers' side, the Federation of Greek Industries (SEV) would prefer the maximum contract period to be extended to 12 months, renewable for a further 12 months, on the grounds that frequent changes in employment reduce a worker's chances of gaining on-the-job experience. The SEV also disagrees with agency workers' wages being determined on the basis of company-level agreements and agreements reached at other (e.g. sectoral and occupational) levels as it considers that agreements concluded at the level of the enterprise reflect the reality of regular workers, and that they cannot apply to workers leased out to an indirect employer.

On the other hand, the General Confederation of Greek Labour (GSEE) argues that the duration of temporary contracts should not exceed 12 months in total (6 months renewable for another 6 months), and that temporary agency workers should not be employed to cover permanent user-company needs; the GSEE is also concerned about the implications of temporary agency work on workers' employment rights. It should also be pointed out that there is no special union structure for temporary agency workers.

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<sup>71</sup> The TWA and the user company are both liable vis-à-vis the temporary worker with regard to safeguarding his/her social insurance rights, unless the agreement clearly stipulates that it is the direct employer (the TWA) that is liable for the payment of social security contributions.

<sup>72</sup> The institutional framework allows the user company to offer a worker temporary employment for a period not exceeding 18 months. The user company can initially employ a temporary worker for a maximum period of 8 months, but this may be renewed for a further 8 months. If the temporary worker continues to be employed at the same user company for 2 months after the initial contract has been renewed (i.e. for a total of 18 months), the user company is obliged to conclude a contract of indefinite duration contract with that employee.

Lastly, it is worth noting that at first unions were strongly opposed to the operation of temporary employment agencies, which they accused of conducting a “contemporary form of slavery”, but they eventually had to come to terms with reality since this form of employment existed *de facto*. Ultimately, they welcomed the new regulatory framework as an improvement in the status of previously unprotected temporary workers – all the more so as many of their proposals (submitted as early as 1997) were incorporated in the new legislation.

### **3. Organisations active in the sector**

#### **Employers’ organisations**

See table.

#### **Workers’ organisations**

There are no relevant trade unions active in the sector.

## Greece

### Elements relating to the organisations

*Employers' organisations (2003/2004 - Source: the organisations)*

Organisation		Sub-sectors covered	Companies	TAWs	Density Companies	Density TAWs	CB	National affiliations		European affiliations		International affiliations	
<u>Original name</u>	<u>English name</u>		<u>Number</u>	<u>Number</u>	<u>%</u>	<u>%</u>	<u>Yes/No</u>	<u>Direct</u>	<u>Indirect</u>	<u>Direct</u>	<u>Indirect</u>	<u>Direct</u>	<u>Indirect</u>
ENEPASE	Greek Federation of Agency Work	Temporary agency work	6	n.a.	60%	n.a.	No	No	No	Euro-CIETT	No	CIETT	No
SEV	Federation of Greek Industries	Manufacturing industries and service industries related to manufacturing, employing over_50 employees	560 companies, 70 sectoral organisations, and 7 regional organisations (1998 data)	n.a.	n.a.	n.a.	Yes	No	No	UNICE	No	No	No
GSEVEE	Confederation of Small and Medium-Sized Enterprises of Greece	Traders, artisans and professionals (self-employed or employing up to 50 employees)	69 federations and 1,359 associations	n.a.	n.a.	n.a.	Yes	No	No	UEAPME	No	No	No

TAWs: temporary agency workers

Density companies: number of companies affiliated / total number of companies in the sector

Density TAWs: number of temporary agency workers in the affiliated companies / total number of temporary agency workers in the country

CB: Does the organisation take part in collective bargaining?

# IRELAND

## 1. Description of the sector

### Legal framework and delimitation of the sector

Temporary agency workers form a heterogeneous group, and can be classified in the Irish labour market according to the following criteria set: employed under a fixed-term contract, under a fixed-purpose contract, to carry out seasonal work, as casual workers, to undertake temporary work as organised by an employment agency, in permanent temporary or temporary full-time work and on zero-hours contracts.

Employment agencies were first regulated in Ireland in the 1970s. Many, but not necessarily all, of these agencies are engaged in the placement of temporary agency workers. The Employment Agency Act, 1971 has two functions regulating the activities of employment agencies in Ireland, and includes provisions dealing with licensing, monitoring, control and inspection.

### Socio-economic features of the sector

It is important to note that there is no real distinction within the recruitment industry between temporary agencies and recruitment agencies. It follows that temporary agency work cannot be distinguished from the recruitment industry.

According to Lansdowne Marketing Research, 2003<sup>73</sup>, the Irish recruitment industry grew exponentially between 1998 and 2003, and more than half of all recruitment agencies in Ireland have been in business for under five years.

In principle, all Irish employment rights legislation applies to all agency workers who have a contract of employment with an employment agency or with a “user-undertaking” where the agency worker is placed. There is no legal definition of temporary agency work in Ireland. There is no single law. The employment rights of temporary agency workers are protected by several legislative provisions: for example, the Employment Equality Act, 1998 is an example of legislation that provides equal treatment for agency workers alongside other workers. The temporary agency worker is regulated by the statutes governing working conditions. There is no legislation that specifically protects temporary agency workers. There are no specific national-level occupational safety and health policies dedicated to temporary agency workers, and the safety and health of temporary agency workers are protected under the Safety, Health and Welfare at Work Act, 1989. Specific points dedicated to temporary employees are cited in the Safety, Health and Welfare at Work Act under Regulation 11.

Employers of temporary agency workers are usually the temporary agency or recruitment agency that pays the worker.

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<sup>73</sup> Lansdowne Market Research, September 2003. National Recruitment Federation Member and Non Member Study Report.

The Organisation of Working Time Act, 1997 sets out the statutory rights for employees with regard to rest, maximum working time and holidays. In the case of agency workers, the person liable to pay the wages (the employment agency or the hiring company) is the employer for the purposes of the Act, and is responsible for providing the holiday/public holiday entitlement. The Act also contains a description of “zero-hours” contracts: this refers to situations in which an employee is asked to be available for work without a guarantee of work, or is informed that there will be work available on a specified day or days.

According to the National Recruitment Federation, the number of licensed agencies does not correspond to the number of licensed agencies in operation<sup>74</sup>, and the Department of Enterprise, Trade and Employment is unable to provide accurate figures for the number of licensed agencies. Statistics relating to licensed agencies therefore vary according to the source, and the number of licensed agencies has decreased since 2000 and 2003. This decline (in 2003, for example, there were 500 licensed agencies) parallels the slump in the economy.

With regard to the economic structuring of user firms, there are no specific Irish statistics available for the different sectors using temporary agency workers, but there are figures for each sector's market penetration of the recruitment industry: in 2003, the main areas of recruitment activity by market penetration were the office and secretarial (41%), accounting/financial (37%), sales and marketing (33%), technical/engineering (32%) and hotels and catering (23%) sectors.

There is considerable convergence in relation to the importance of temporary agency workers in Ireland: the figure of 5.2% (of total employment) based on the findings of the Third European Survey of Working Conditions appears to be quite reliable. There are 76,838 permanent placements and some 253,761 temporary placements<sup>75</sup>. There are no data available for the distribution of categories of temporary agency workers. Temporary agency workers are found among blue- and white-collar workers. Those seeking agency work in the Irish economy come under the following headings: graduates accessing the labour market, returnees (mothers) accessing the labour market after a number of years of not working, the unemployed accessing the labour market, people who have opted for new life-style choices, and migrant workers.

Temporary agency workers are sometimes paid a higher hourly rate than other employees to compensate for lack of permanency and a private pension.

Lastly, ILO labour standards have been integrated in the national legislation that regulates temporary working agencies. Ireland has ratified the ILO C49 Reduction of Hours of Work (Glass-Bottle Works) Convention, but not the C181 Private Employment Agencies Convention, which was adopted on 19 June 1997. According to the Department of Enterprise, Trade and Employment, Convention 181 is not in conformity with Irish law, and Ireland is not expected to ratify it in the near future.

## 2. Social dialogue in the sector

The sector is regulated primarily by voluntary agreements, which do not have the same force of law as found in other EU countries. Temporary agency workers do not have specific collective agreements, but temporary agency workers are instead named or included in, or added to, agreements. There are no Joint Committees for the temporary agency work sector.

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<sup>74</sup> Solicitors and accountancy firms obtain licences, but do not often use them.

<sup>75</sup> Lansdowne Market Research, September 2003. National Recruitment Federation Member and Non Member Study Report.

Tripartite dialogue is important in centralised collective bargaining in the sector. Social dialogue discussions take place between the state, the Department of Enterprise, Trade and Employment, the ICTU and the IBEC. The most recent example of this is “Sustaining Progress”, which contains a number of paragraphs relating to reforms of the Employment Agency Act, 1971 and discussions on the EU draft directive. The “Sustaining Progress” Agreement is negotiated between representative bodies of employers and unions at national level, and is facilitated or supported by the state through the Department of the Prime Minister (Department of the Taoiseach). It is a form of voluntary social pact, the style of which has been in existence since the 1980s. This type of agreement is widely used as a benchmark by non-unionised employment and small employers. The majority of temporary agency workers rely on “Sustaining Progress” or equivalent voluntary agreements.

Registered Employment Agreements (REAs) are provided for in the Industrial Relations Acts 1946-2004. Such agreements on minimum wages and other conditions of employment may be set by means of collective agreements at a sectoral and/or regional level, or indeed for a single firm. Unlike Joint Labour Committees, they are not confined to sectors where collective bargaining is traditionally weak: one REA that was registered by the SIPTU (Services Industrial Professional Technical Union) and the CIF (Construction Industry Federation) for agency workers in the construction sector in 2001 was negotiated on a national bipartite basis. The SIPTU takes the view that the terms of the agreement are applicable to members and of the union and non-members. Contractors who engage workers write to the agency concerned saying that operatives must be employed under the terms of the registered agreement for the construction industry. Contractors ask the agencies to confirm in writing that they are complying with the terms of the registered agreement for the construction industry. Contractors guarantee agency workers a minimum of three days’ work, although this minimum period sometimes does not apply for specific work. Employees from agencies working on construction sites have to join the appropriate trade union. Agency workers are making a very significant contribution to the boom in the construction industry. Temporary agency workers play a critical role in this industry at present.

The European Directive on temporary agency workers is a general issue of contention between, on the one hand, the Department of Enterprise, Trade and Employment, the Small Firms’ Association and the IBEC and, on the one other, the ICTU.

### 3. Organisations active in the sector

There are no specific trade unions or employer organisations for the temporary agency work sector.

#### Employers’ organisations

The **NRF (National Recruitment Federation)**, formerly the Irish Federation of Personnel Services (IFPS), was established in 1971 as a representative and umbrella body for Irish recruitment agencies. It acts as a representative for industry, lobbies for members’ interests at government and EU level, and aims to improve standards in the recruitment industry. Membership of the National Recruitment Federation is granted to organisations that meet certain criteria of excellence and abide by the code of practice set out by the Federation.

The **IBEC (Irish Business Employers’ Confederation)** is a confederation that provides a range of services to more than 7,000 businesses and organisations in the organisational membership. It is the leading umbrella body acting as a voice for industry in Ireland on behalf of Irish businesses and employers. As far as temporary agency work is concerned, there is no formal group or department within the IBEC that deals directly and exclusively with temporary agency work issues. Informal discussions take place as issues emerge, but no formal negotiations regarding temporary agency work have taken place in the IBEC.

The IBEC and the National Recruitment Federation do not have any formal record of negotiating in the temporary agency work sector.

The **CIF (Construction Industry Federation)** represents, and serves, over 3,000 members covering businesses in all areas of the Irish construction industry through a network of 13 Branches in three regions throughout Ireland and through its 37 Sectoral Associations. The construction industry has signed and negotiated an REA with the SIPTU.

## **Workers' organisations**

The following trade unions take part in discussions relating to temporary agency workers.

The **SIPTU (Services Industrial Professional Technical Union)** is the organisation chosen by over 200,000 Irish workers from virtually every category of employment across all sectors of the Irish economy to represent them. It is the major organisation in Ireland, and has all the expertise, experience and back-up services necessary to assist workers in their dealings with employers, government and industrial relations institutions. The union also plays a vital national role as one of the key components of the social partnership with government and employers. Through partnership, the SIPTU delivers on union demands for real improvements in incomes, and in social provision at work and in the community; this has been achieved through managing competitiveness in individual workplaces by national agreements on low inflation and tax reform measures of benefit to employees. The SIPTU has also signed a Registered Employment Agreement (REA.)

The **IBOA (Irish Bank Officials' Association)** is the leading trade union representing staff in Ireland's banking and finance industry. It has a wide range of services to offer to members, from industrial relations to legal expertise and social events to discount offers. The IBOA represents all types of bank staff, including full-time, part-time and temporary staff in financial institutions of all types such as life assurance companies, finance and leasing organisations and call centres.

The **IMO (Irish Medical Organisation)** was formed in 1984, following the amalgamation of the Irish Medical Association and the Irish Medical Union, to act as the national representative medical organisation linking all branches of the medical profession in Ireland. The IMO is the sole negotiating body for doctors in Ireland, and is a provider of information both on a wide range of the industrial relations and personnel management issues that affect members of the medical profession, and on any aspect of the Irish Health Service.

The **UCATT-UK Trade Union (Union of Construction, Allied Trades and Technicians)** represents any matter relating to terms and conditions, disciplinary and grievance procedures, training and health and safety. UCATT branches operate via a bottom-up democratic structure, with members belonging to one of the 500 branches throughout the UK and the Republic of Ireland. Each branch elects officers to run the branch, and can nominate representatives to the Regional Council and the union's highest policy-making body, the National Delegate Conference.

The **INO (Irish Nurses' Organisation)** is the largest professional union for Nurses and Midwives in Ireland. It has 30,000 members, 1,000 of whom are registered with nursing agencies. Each year, the INO conducts a review of its recommended agency nursing rates; this takes account of pay movements within the public services for the coming year. The major nursing agencies are invited to participate in a consultative process in advance of the annual review.

## IRELAND

### Elements relating to the organisations

*Employers' organisations (2004 - Sources: the organisations)*

Organisation		Sub-sectors covered	Companies	TAWs	Density Companies	Density TAWs	CB	National affiliations		European affiliations		International affiliations	
<u>Original name</u>	<u>English name</u>		<u>Number</u>	<u>Number</u>	<u>%</u>	<u>%</u>	<u>Yes/No</u>	<u>Direct</u>	<u>Indirect</u>	<u>Direct</u>	<u>Indirect</u>	<u>Direct</u>	<u>Indirect</u>
IBEC - Irish Business Employers' Confederation		All sectors	7,500	n.a.	n.a.	n.a.	Yes	No	No	UNICE	No	IOE	No
NRF - National Recruitment Federation		Recruitment	120	n.a.	26%	n.a.	No	IBEC	No	Euro-CIETT	UNICE	CIETT	No
CIF- Construction Industry Federation		Construction	Over 3,000	n.a.	n.a.	n.a.	Yes	IBEC	No	UNICE, Euro-CIETT	No	CIETT	No

TAWs: temporary agency workers

Density companies: number of companies affiliated / total number of companies in the sector (in terms of agencies registered but all are not necessarily in operation).

Density TAWs: number of temporary agency workers in the affiliated companies / total number of temporary agency workers in the country

CB: Does the organisation take part in collective bargaining?



*Trade unions (2004 - Sources: the organisations)*

Organisation		Types of TAW	Members	Members working as TAWs	Density	CB	National affiliations		European affiliations		International affiliations	
Original name	English name	Type	Number	Number	%	Yes/No	Direct	Indirect	Direct	Indirect	Direct	Indirect
<b>SIPTU</b> - Services Industrial Professional Technical Union		All sectors	200,000	n.a.	n.a.	Yes	ICTU	n.a.	UNI-Europa (source: UNI-Europa)	ETUC	UNI (source: UNI-Europa)	ICFTU
<b>IBOA</b> - Irish Bank Officials' Association		Banking and finance	18,000	n.a.	n.a.	Yes	ICTU	n.a.	UNI-Europa (source: UNI-Europa)	ETUC	UNI (source: UNI-Europa)	ICFTU
<b>IMO</b> - Irish Medical Organisation		Doctors	6,000	n.a.	n.a.	Yes	ICTU	n.a.	n.a.	ETUC	n.a.	ICFTU
<b>UCATT UK</b> - trade union - Union of Construction, Allied Trades and Technicians		All sectors	Not known	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.
<b>INO</b> - Irish Nurses 'Organisation		Nurses	30,000	Not known	n.a.	Yes	ICTU	n.a.	n.a.	ETUC	n.a.	ICFTU

TAWs: temporary agency workers

Density: number of temporary agency workers affiliated to the organisation / total number of temporary agency workers in the country

CB: Does the organisation take part in collective bargaining?

# ITALY

## 1. Description of the sector

### Legal framework and delimitation of the sector

Law No 196 of 24 June 1997 is widely known as the “Treu Act” after Tiziano Treu, who was Minister of Labour at the time. Articles 1-11 have, among other things, liberalised temporary agency work, which has accordingly grown at a substantial rate since the early months of 1998, although still to a limited extent in many places.

The Treu Act has defined a “contract for the supply of temporary work” as one under which a temporary work agency provides a firm with one or more workers for the purpose of their employment to meet temporary needs<sup>76</sup>.

Temporary workers are hired by the agency, which is the formal employer in the employment relationships, and is therefore obliged to remunerate them and pay their social security contributions. On the basis of special temporary work contracts, workers are obliged to provide a user firm their labour under the latter’s supervision and control.

Temporary agency workers (TAWs) may be used:

- to replace absent workers;
- to perform interim tasks that cannot be carried out by the user firm’s permanent workforce;
- to provide skills not available within the user firm itself, in periods of peak production, and in other settings established by sectoral collective bargaining.

TAWs may not be used:

- to replace workers on strike;
- to carry out dangerous jobs;
- in firms that have laid off workers in the previous twelve months;
- in firms using the Wages Guarantee Fund;
- in firms that do not comply with workplace safety standards.

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<sup>76</sup> The Treu Act requires enterprises to have stock company or cooperative legal form, available share capital amounting to EUR 600,000, an area of activity corresponding to the national territory or covering at least four regions, and a refundable deposit of EUR 350,000 guaranteeing workers’ credits and pension contributions for the first two years of company’s activity. The Act is fairly restrictive because of the need to oppose the spread of the so-called “*caporalato*”, a system of illegally hiring farm labourers for very low wages.

Law No 30 of 14 February 2003, which was implemented by Legislative Decree No 276 of 10 September 2003, amended the legal framework of temporary work and also introduced important innovations concerning temporary agency work: firstly, Decree No 276 removed the legal constraint of “exclusive social object” on agencies (Article 4) so that they can broaden their range of activities and provide all activities relating to the job-matching sector; secondly, individual temporary work contracts can take the form of permanent contracts in specific cases<sup>77</sup>; and thirdly, temporary agency work has at last been liberalised in agriculture and the construction industry.

### Socio-economic features of the sector

In May 2004, the sector consisted of 73 companies (see table below). In recent years, smaller companies have begun to erode this “oligopoly” and grow in number, even though the market is still characterised by the presence of a few large companies competing with one another on quality, and smaller companies tending to specialise in a specific geographical area and niche markets. At all events, nearly all of them may be regarded as nationwide companies as they work under the legal constraint of operating in at least four regions if they want to obtain ministerial authorisation (Decree 276, Article 5). About two thirds of agencies are concentrated in the north of Italy, with as many as 30% in Lombardy and north-eastern Italy<sup>78</sup>; only about 10% are located in the south.

As for user firms, they were 116,000 of them in 2003 according to CONFINTERIM. They are strongly concentrated in the north of Italy, and in specific sectors (e.g. industry, above all engineering) and they are now extending into trade and services. With regard to their size, they are mostly medium-sized companies, although the percentage of smaller companies is increasing. More specifically, more than 80% of them employ fewer than 100 workers, and about 50% employ 15- 50.

In terms of employment, there were 132,715 TAWs (representing approximately 0.5% of the active population) at the end of 2003, according to CONFINTERIM. Half of them were blue-collar workers. There is also quite a strong requirement for white-collar workers and increasing demand for professions related to trade, tourism and services. More than 40% of TAWs have only a middle-school diploma or a lower certificate, whereas under 15% have a university degree. TAWs are quite young people: indeed, under 15% are over 40 years of age; the average age is 31.6 years. Immigrants carry out more than 20% of work missions despite the fact that they represent only 10% of the total number of TAWs in Italy. The ratio of women to men is about 43:57.

All existing studies report steady growth in the use of temporary agency work since 1998, but with a noticeable slowdown in 2002. It is surprising that the temporary agency work sector is developing so quickly, considering the large number of legal constraints and, above all, the high costs. Some observers lay stress on the important role played by agencies as effective substitutes for less efficient public job-centres, and on their well-known job-matching skills.

### Temporary work agency companies

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<sup>77</sup> The Treu Act offers this option, although it has rarely been used by agencies. Decree No 276 confirmed it but, in Article 20, specified the following range of activities: assistance and consultancy in IT; cleaning services; transport; management of libraries, public parks, museums etc; managerial consultancy, resource planning, organisational development, and human resources management and related activities; marketing; call-centre management; activities related to the construction industry; and other activities established by collective bargaining.

<b>Companies*</b>	<b>***Number of agencies</b>	<b>% in the sector</b>	<b>***Number of work missions<sup>78</sup></b>	<b>% in the sector</b>
<b>Adecco Group<sup>+</sup></b>	<i>about 500</i>	<i>about 17.1</i>	259,071	<i>about 29.1</i>
<b>Manpower S.p.A.</b>	334	<i>about 11.4</i>	124,088	<i>about 13.9</i>
<b>Obiettivo Lavoro S.p.A.</b>	155	<i>about 5.3</i>	<i>about 58,300</i>	<i>about 6.6</i>
<b>Vedior Group<sup>++</sup></b>	94	<i>about 3.2</i>	<i>about 80.000</i>	<i>about 9.0</i>
Others (67 companies)	<i>about 1840</i>	<i>about 63.0</i>	<i>about 368,540</i>	<i>about 41.4</i>
<b>Total (73 companies)</b>	<b>**2,925</b>	<b>100.0</b>	<b>**about 890,000</b>	<b>100.0</b>

\* Source: Ministry of Labour and Social Policy, Register of Authorised Companies (updated to May 2004)

\*\* Source: CONFINTERIM (2003)

\*\*\* Source: direct contacts with each company

<sup>+</sup> Adecco Group includes Adecco S.F.L.T. and Horecca

<sup>++</sup> Vedior Group includes Vedior L.T. and Select - Agenzia per il Lavoro (formerly Italia Lavora)

## 2. Social dialogue in the sector

As for the structure of collective bargaining, the sector is a clear exception to the Italian two-tier system because of the unusual way in which the sector is organised. The parties are signatories to a specific interprofessional agreement, which is complementary to legislation and therefore addresses issues that are not directly covered by legislation; it also contains general rules concerning the labour market. In this way, it is also subsidiary to sectoral bargaining, which provides minimum standards concerning pay and defines TAWs' specific terms of employment through national industry-wide agreements. The latter are then implemented at a decentralised (i.e. regional, provincial or company) level. There are therefore no real differences in term of wages and working conditions between TAWs and salaried workers doing a similar type of work, although there are significant sector-by-sector differences between TAWs themselves. The agreement also gives TAWs the right to trade union representation at both local and company level within user firms, despite the fact that the agencies are the formal employers.

Historically, the first national collective agreement (at interprofessional level) covering temporary work agencies was signed on 28 May 1998 by the three most representative trade union confederations, the CGIL, CISL and UIL, and their special organisations, NIDIL-CGIL, ALAI-CISL, UIL CPO, and ASSOINTERIM<sup>79</sup>. It covered such matters as the industrial relations structure, the duration of the contracts signed with client firms, and job classification.

<sup>78</sup> Companies usually refer to the number of work missions rather than number of TAWs.

<sup>79</sup> ASSOINTERIM belongs to CONFINTERIM.

On 10 July 2002, the social partners signed a new national collective agreement that significantly modified the old one. The signatory organisations were AILT and CONFINTERIM<sup>80</sup> for the employers, and the three most representative trade union confederations, the CGIL, CISL and UIL (and their special organisations NIDIL-CGIL, ALAI-CISL and UIL CPO) representing TAWs. In particular, the new agreement:

- provides for the setting-up of a number of joint bodies, and defines in more detail the role and tasks of the National Joint Body for Temporary Agency Work (EBITEMP);
- provides for TAWs to have an individual right to training through the establishment of the Fund for the Training of Temporary Agency Workers (FORMATEMP), and specifies four kinds of training (basic, on-the-job, vocational and continuing);
- significantly strengthens the health and safety protection system with all TAWs being compulsorily given a kind of “health and risk form” setting out the working conditions of the job they are assigned to; they also qualify for occupational illness benefits paid by EBITEMP;
- reinforces the principle that TAWs should receive the same wages and contractual treatment as applied to employees of the user firms who perform the same duties;
- provides that workers hired by agencies on permanent contracts shall receive a monthly “availability” allowance of EUR 516 when not on a work mission in a user firm;
- obliges the agency to pay the worker the difference if the wages paid by the user firms are lower than the availability allowance.

On 27 October 2003, the signatory organisations and APLA, the third largest sectoral employers’ association, signed an agreement adapting the National Collective Agreement of 10 July 2002 to the new legal framework (it was amended by Law No 30 of 14 February 2003 and implemented by Legislative Decree No 276 of 10 September 2003).

With regard to coverage rate of the collective agreements, Italy’s “erga omnes” practice of extending collective agreements usually makes it difficult to calculate statistical data accurately, but in the case of the temporary agency work sector, it is possible to advance some general hypotheses for the national collective agreement’s coverage insofar as the agreement applies to all temporary work agency companies affiliated to sectoral employers’ associations, and these companies account for 90.4% of all companies and cover something like 90% of work missions activated in 2003<sup>81</sup>.

Lastly, the development of social dialogue in the sector does not pose any particular problems. On the contrary, relationships between the parties are fairly good, and the social partners therefore have involved themselves in a number of joint initiatives, and a participatory system of industrial relations has accordingly developed and been consolidated.

### 3. Organisations active in the sector

#### Employers’ organisations

Employers’ organisations are usually intersectoral and have many vertical structures: employers usually join their territorial interest associations and, through them, the national one. Nevertheless, interest representation in the temporary agency work sector displays significant differences from the traditional Italian representation model.

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<sup>80</sup> CONFINTERIM includes both ASSOINTERIM and FEDERINTERIM (Federazione Italiana delle Imprese di Lavoro Temporaneo – Federation of Italian Temporary Work Businesses).

<sup>81</sup> There are no available data on the number of agencies and TAWs: as for agencies, it is important to bear in mind that all major companies with a large number of agencies are covered by the agreement; with regard to TAWs, companies usually refer to the number of work missions rather than the number of TAWs.

**CONFINTERIM (Confederazione Italiana delle Associazioni delle Imprese Fornitrici di Lavoro Temporaneo - Confederation of Italian Associations of Temporary Work Businesses)** was initially the only national confederation that undertook lobbying activity to promote the legitimization of temporary agency work. Since 1997, it has begun to represent temporary work agency companies and “cooperate” with trade unions. Today, CONFINTERIM includes two national associations: ASSOINTERIM (representing companies located in northern and central Italy) and FEDERINTERIM (representing companies located in the south). A total of 38 companies are affiliated: at the present time, most are small companies, with a few of them carrying out only approximately 20% of the total number of work missions in the sector.

The **AILT (Associazione Nazionale delle Imprese di Fornitura di Lavoro Temporaneo - National Association of Temporary Work Businesses)** was founded by MANPOWER after its withdrawal from CONFINTERIM. It is a national association directly affiliated to CONFINDUSTRIA.

The **APLA (Agenzie per il Lavoro Associate - Associated Temporary Work Agencies)** was also founded by a number of major companies (including ADECCO, VEDIOR and OBIETTIVO LAVORO) that withdrew from CONFINTERIM. It has not yet developed an articulated organisational structure and its functions are not well defined, although it has signed an agreement on adapting the 2002 Collective Agreement.

## **Workers' organisations**

The representation of workers' interests in Italy is mainly horizontal and not sectoral, sectoral federations being internal structures of general trade unions. As a result, even if sectoral federations usually have autonomy in collective bipartite negotiations, they normally behave according to inter-federal strategies, especially in the field of social and industrial relations policies.

The three most representative trade union confederations, the CGIL, CISL and UIL, have recently started giving closer attention to atypical work matters. However, they have decided not to become directly involved with such issues, but rather to set up specific “parallel subsidiary associations” named NIDIL-CGIL, ALAI-CISL and UIL CPO. A distinctive feature of these organisations is their membership structure based on the special social condition of members being “contingent workers”.

**NIDIL-CGIL (Nuove Identità di Lavoro - New Work Identities)** only represents atypical workers. It was set up in 1998, and after an initial, experimental phase, is now a nationwide independent external association, and a member of the CGIL. It operates in three areas: general representation of atypical workers, sector- and company-level representation of particular occupational categories in national and local bargaining, and the provision of individual assistance and services.

**ALAI-CISL (Associazione Lavoratori Atipici e Interinali - Atypical and Temporary Agency Workers' Association)** represents atypical workers and the “non-works category”. CISL's special organisation, which was founded in July 1998, focuses more on individual assistance (e.g. such social insurance and fiscal assistance), and has opened territorial offices across the whole country for this purpose.

**UIL CPO (Coordinamento per l'Occupazione - Committees for Employment)** represents atypical workers, the non-works category, unemployed workers and young people with no work. It is important to bear in mind that this is not an independent association, but a “confederal service”, that is to say kind of link organisation between category and confederation.

# ITALY

## Elements relating to the organisations

### *Employers' organisations (2003 - Sources: the organisations)*

Organisation		Sub-sectors covered	Companies	TAW missions	Density companies	Density TAW missions	CB	National affiliations		European affiliations		International affiliations	
Original name	English name		Number	Number	%	%	Yes/No	Direct	Indirect	Direct	Indirect	Direct	Indirect
<b>Confinterim</b> - Confederazione Italiana delle Associazioni delle Imprese Fornitrici di Lavoro Temporaneo	Confederation of Italian Associations of Temporary Work Businesses	All	38	182,500	52.1	+/- 20.5	Yes	No	No	Euro-CIETT	No	CIETT	No
<b>AILT</b> - Associazione Nazionale delle Imprese di Fornitura di Lavoro Temporaneo	National Association of Temporary Work Businesses	All	17	137,619	23.3	+/- 15.5	Yes	CONFINDUSTRIA	No	No	No	No	No
<b>APLA</b> - Agenzie per il Lavoro Associate	Associated Temporary Work Agencies	All	11	480,000 (estimate)	15.1	53.9 (estimate)	Yes	No	No	No	No	No	No

TAW missions: companies usually refer to the number of work missions in preference to the number of TAWs

Density companies: number of companies affiliated / total number of companies in the sector

CB: Does the organisation take part in collective bargaining?

*Trade unions (2003 - Sources: the organisations)*

Organisation		Types of TAW	Members	Members working as TAWs	Density	CB <sup>82</sup>	National affiliations		European affiliations		International affiliations	
Original name	English name	Type	Number	Number	%	Yes/No	Direct	Indirect	Direct	Indirect	Direct	Indirect
<b>ALAI-CISL</b> - Associazione Lavoratori Atipici e Interinali	Atypical and Temporary Agency Workers' Association	All	+/- 21,500	7-8,000 (estimate)	5.3-6.0 (estimate)	Yes	CISL	No	No	No	No	No
<b>NIDIL-CGIL</b> - Nuove Identità di Lavoro	New Work Identities	All	+/- 17,000	+/- 5,000	+/- 3.8	Yes	CGIL	No	No	No	No	No
<b>UIL CPO</b> - Coordinamento per l'Occupazione <sup>e83</sup>	Committees for Employment	All	Not available	Not available	Not available	Yes	UIL	No	No	No	No	No

TAWs: temporary agency workers

Density: number of temporary agency workers affiliated to the organisation / total number of temporary agency workers in the country

CB: Does the organisation take part in collective bargaining?

<sup>82</sup> The three trade unions take part in interprofessional-level bargaining as they mostly represent contingent workers, and are therefore interprofessional organisations.

<sup>83</sup> Data on UIL CPO membership are not available. Many experts regard it as a very "loose" association.



# LUXEMBOURG

## 1. Description of the sector

### Legal framework and delimitation of the sector

Article 1 of the Law of 19 May 1994 on temporary-employment agency work states that a temporary-employment agency is any physical or moral person whose commercial activity involves hiring and paying salaried employees with a view to placing them at the temporary disposal of so-called “user enterprises” for the performance of a job, that is to say of a specified, non-permanent task.

For a definition of a specified, non-permanent task, the legislation turns to Article 5 of the 1989 Law regulating the contract of employment, which lists the situations in which it is permitted to issue fixed-term contracts. By referring expressly to this different form of employment relationship, lawmakers signalled their intention to place both on an equal legal footing, and their desire to situate the protection of temporary agency workers on a level close to, if not equivalent to, that of common law.

The use of temporary-employment agency work is permitted in the following circumstances:

- as a replacement for an employee who is temporarily absent from work, or whose contract of employment has been suspended;
- seasonal employment;
- jobs in certain sectors of activity for which it is normal not to use contracts of indefinite duration;
- the performance of occasional, once-and-for-all tasks that do not come within the framework of the enterprise’s current activity;
- exceptional peaks of work;
- carrying out urgent work for the prevention of accidents;
- the integration of job-seekers.

However, it is forbidden to use temporary-employment agency workers to do work linked to the user enterprise’s normal, permanent activity on a permanent basis.

No specific sector of activity is banned from using temporary-employment agency workers.

### Socio-economic features of the sector

At the beginning of 2003, there were 32 temporary-employment agencies established in Luxembourg with trading permits issued by the Ministry. If the branches of these agencies located in different part of the country had also been taken into account, there would have been 48 agencies altogether. They are mainly concentrated in the capital, and then in Esch/Alzette, the second most important town in Luxembourg.

In terms of jobs, there has been an increase in the number of temporary agency workers, with 3,858 in 1998, and 6,598 in the first quarter of 2003<sup>84</sup>. There were 6,841 contracts for specific tasks in 1998, and 12,749 in 2002. In the first quarter of 2003, there were 13,336<sup>85</sup>.

Most temporary-employment agency workers are men (77.3% in the first quarter of 2003). Temporary agency workers also tend to be manual workers, and women tend to be white-collar workers, but the overall majority of TAWs are manual workers.

Lastly, the construction sector employs most temporary-employment agency workers (25% on average since 1999); next come the hotels, restaurants and cafés and financial intermediation sectors, with very much smaller numbers of about 5% over the same period.

## 2. Social dialogue in the sector

The principle is one of equal treatment of status between temporary-employment agency workers and their salaried permanent colleagues in the user enterprise. Employment law and extended provisions contained in regulations and collective agreements apply in respect of such matters as contracts of employment, the minimum wage and working hours. Temporary agency workers must also have access to the user enterprise's benefits and collective facilities under the same conditions as permanent salaried employees. The user enterprise is solely responsible for compliance with conditions relating to occupational health and safety. The temporary-employment agency is solely responsible for pay, and for associated taxes and social security contributions.

The actors in social dialogue in the sector are as follows: for the employers, the Luxembourg Union of Temporary-Employment Agencies (Union Luxembourgeoise des Entreprises de Travail intérimaire, ULEDI); and for the workers, the Federation of Commerce and Services (Fédération commerce et services) section of the Luxembourg Confederation of Christian Trade Unions (Lëtzebuenger Chrëschtliche Gewerkschafts-Bond, LCGB) and the Services and Energy Trade Union of the Independent Trade Union Confederation of Luxembourg (Onofhängege Gewerkschaftsbond Lëtzeburg, OGB-L).

The ULEDI has no direct involvement in collective bargaining unless temporary-employment agency work declines as a result of a poor economic showing.

The LCGB claims that temporary agency workers face problems with opening and closing bank accounts. The banks say that these people's accounts are not profitable, and they close them down or refuse to open them in the first place, with the result that they end up being paid cash-in-hand in the agencies where they are registered. The LCGB also points to the increasing number of foreign postings undertaken by temporary agency workers. Luxembourg-based temporary-employment agencies are increasingly drawing up requests for approval with a view to establishing themselves abroad. The LCGB mentions only one area where negotiations have succeeded: this related to the setting up of a sectoral fund to manage such matters as end-of-year bonuses, and actions linked to training and safety.

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<sup>84</sup> This calculation is based on the number of physical persons. Some were counted several times in a given year during which they worked several contracts for specific tasks, or worked single contracts for specific tasks but which were spread over at least two consecutive months of the same year. Source: Social Security Inspectorate (Inspection Générale de la Sécurité Sociale, IGSS) – Expert's calculation.

<sup>85</sup> Calculated on the basis of the yearly average. Source: Social Security Inspectorate – Expert's calculations.

The OGB-L refers to the following developments: demands made by temporary agency workers have fallen away considerably over the years, and this applies to demands relating both to conditions of employment and to pay; the only really persistent demands relate to problems that temporary agency workers have in respect of entitlement and disentanglement to social security services. The OGB-L also raises the issue of improving the image of temporary-employment agency work.

The three negotiating partners have agreed to recognise the high quality of social dialogue in the sector.

A new collective agreement has been signed for temporary-employment agency workers: it will run from 1 January 2004 to 31 December 2006, and will enjoy 100% coverage as it has been declared to have "erga omnes" force. The agreement provides for the implementation of actions in the fields of training and employment integration, and of occupational health and safety. The new collective agreement sets out the rules to be applied in cases when a temporary-employment agency worker is posted abroad, and in cases of transfers of enterprises.

### 3. Organisations active in the sector

#### Employers' organisations

Of the 32 temporary-employment agencies, 16 were affiliated to the **Luxembourg Union of Temporary-Employment Agencies (Union luxembourgeoise des entreprises de travail intérimaire, ULEDI)** on 18 May 2004. This represents an affiliation rate of 50%. Only enterprises affiliate to the Union; individual members do not. However, if the turnover of these enterprises and the number of temporary-employment workers employed by them are taken into account, there is estimated representativeness of 80%. The ULEDI is funded solely out of fees paid by temporary-employment agencies in membership.

#### Workers' organisations

The two trade union federations collaborate when drawing up lists of demands in advance of collective bargaining. Both take part in collective bargaining on the basis of their national representativeness recognised by the Law of 12 June 1965 on collective agreements. They also participate in consultation exercises with the public authorities.

The **Federation of Commerce and Services (Fédération commerce et services)** is responsible for the temporary-employment agency sector within the Luxembourg Federation of Christian Trade Unions (LCGB). However, this trade union does not hold a complete list of affiliates in the sector, as the sector is insufficiently "unionised", and people are therefore too mobile to be counted. It follows that it is not possible either to draw a distinction between members' professional statuses, even though demands and grievances come mainly from manual workers, or to identify reliable data for temporary agency workers in the strict sense of the phrase.

Responsibility for the temporary-employment agency sector in the Independent Trade Union Confederation of Luxembourg lies with the **Services and Energy** trade union. This union has 300 full-time equivalent members out of a total of 2000-3000 full-time equivalents<sup>86</sup>. Affiliation is therefore hard to determine on the basis of the number of employees (i.e. physical persons) currently registered in the sector, but it is estimated to be 12%. Most members are manual workers. There are only about 50 white-collar workers (physical persons) in

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<sup>86</sup> The figure of 2000-3000 full-time equivalents corresponds to the number of temporary-employment agency workers reduced to an equivalent of full-time workers, and working contracts for specific tasks in May 2004. This estimate was carried by ULEDI and the trade unions.

membership. It is important to note, however, that this figure of 300 does not distinguish between temporary agency workers in the strict sense of the phrase and permanent members of staff in temporary-employment agencies.

## LUXEMBOURG

### Elements relating to the organisations

#### *Employers' organisations (May 2004)*

Organisation		Sub-sectors covered	Companies	TAWs	Density Companies	Density TAWs	CB	National affiliations		European affiliations		International affiliations	
<u>Original name</u>	<u>English name</u>		<u>Number</u>	<u>Number</u>	<u>%</u>	<u>%</u>	<u>Yes/No</u>	<u>Direct</u>	<u>Indirect</u>	<u>Direct</u>	<u>Indirect</u>	<u>Direct</u>	<u>Indirect</u>
ULEDI - Union Luxembourgeoise des Entreprises de Travail intérimaire	Luxembourg Union of Temporary-Employment Enterprises	All	16	n.a.	50%	80%	Yes	No	FEDIL	Euro-CIETT	No	CIETT	No

TAWs: temporary agency workers

Density companies: number of companies affiliated / total number of companies in the sector

Density TAWs: based in terms of turnover of the members and in terms of the number of temporary agency workers of these members.

CB: Does the organisation take part in collective bargaining?

#### *Trade unions (2004)*

Organisation		Types of TAW	Members	Members working as TAWs	Density	CB	National affiliations		European affiliations		International affiliations	
<u>Original name</u>	<u>English name</u>	<u>Type</u>	<u>Number</u>	<u>Number</u>	<u>%</u>	<u>Yes/No</u>	<u>Direct</u>	<u>Indirect</u>	<u>Direct</u>	<u>Indirect</u>	<u>Direct</u>	<u>Indirect</u>
Fédération commerce et service	Federation of Commerce and Services	All	n.a.	n.a.	n.a.	Yes	LCGB	No	No	UNI-Europa, ETUC	No	UNI, WCL
Services et énergie	Services and Energy	All	n.a.	n.a.	12% (estimate)	Yes	OGB-L	CGT-L	No	UNI-Europa, ETUC	No	UNI

TAWs: temporary agency workers

Density: number of temporary agency workers affiliated to the organisation / total number of temporary agency workers in the country

CB: Does the organisation take part in collective bargaining?

# THE NETHERLANDS

## 1. Description of the sector

### Legal framework and delimitation of the sector

Under the "Standaard Bedrijfsindeling" 1993 (the Dutch equivalent of the NACE classification system) of the Central Statistics Bureau (CBS), temporary work agencies are defined as companies that engage in the mediation of the temporary placement of people being paid by the temporary work agency. In the collective agreement for temporary workers, the activities of temporary work agencies are described as "the lending of personnel" that perform work supervised by the lending party; it accounts for over 50% of the company's wage costs. This corresponds to about 90% under the definition laid down in the Dutch Civil Code and published in the official government paper<sup>87</sup>.

In recent years, there have been two important developments in the Dutch legislative framework with regard to temporary agency work:

- Firstly, as an effect of the 1998 Law on the Allocation of Labour by Job Intermediaries (Wet allocatie arbeidskrachten door intermediairs, WAADI), temporary work agencies are no longer obliged to hold a licence in order to offer labour to third parties; furthermore, user firms (also covered by the WAADI) can now make use of the same temporary agency worker for an indefinite period of time. The employers' associations have also set up an internal system of hallmarks for temporary work agencies: both the NBU and the ABU have developed institutions to screen members; for the ABU, this hallmark in membership requirements has existed since the 1980s, and a financial control institution was added after 1998. Agencies that wish to join one of these organisations are required to meet certain requirements in terms of a number of factors such as remuneration behaviour and financial reliability.
- The second development was the introduction of the Flexibility and Security (F&S) Act (Wet Flexibiliteit en Zekerheid) as of 1 January 1999. The aim of the F&S Act was to create more flexibility for employers and at the same time more security for employees. There have been collective agreements between TWAs and trade unions since the 1960s, but only in the 1990s did they really gain in significance and substance; this coincided with the rapid expansion, in numbers and reputation, of the temporary agency work sector. The regulations laid down in the F&S Act were incorporated in the collective agreement after 1999. Before the F&S Act, temporary agency workers enjoyed relatively poor legal status, but the ties between a temporary worker and the agency have become stronger, so much so that a temporary worker can become employed by the temporary work agency for an unlimited period of time. By assigning more responsibility to agencies as employers, agency work has to a certain extent been re-regulated. Together with the F&S Act, the 1999-2003 collective agreement has been an important landmark with regard to the recognition of temporary work<sup>88</sup>.

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<sup>87</sup> The following activities are excluded from the definition (from a statistical point of view): service agencies for agriculture and cattle-breeding; the lending of personnel through labour pools set up by, and intended for, members; the temporary lending out of people for which final responsibility for the work lies with the receiving company; and the lending out of (mainly long-term unemployed and lower-educated) young persons for employment projects and subsidised jobs (Source: CBS).

<sup>88</sup> One of the major effects of the introduction of this Act (ECORYS-NEI research 2003) is the fact that the relative use of temporary employment is negatively affected by it during an economic slump in combination with a labour surplus. One of the explanations put forward is that because of the Act, employers have created flexibility in the workplace by offering more employees a temporary contract instead of hiring people through a temporary work agency. Other explanations are to be found in provisions laid down in collective agreement (see below) which, together with the Act, have triggered an

The status of the temporary agency worker has become clearer since the introduction of the F&S Act: the fact that the agency is now the employer is an example of this.

The 1998 Act on Allocation of Labour by Intermediaries prohibits the lending out of personnel to a firm where there is a strike or a lock-out.

### Socio-economic features of the sector

It is estimated that there are currently more than 500 organised temporary work firms. These firms have 3,050 branch offices: there are many more temporary work branch offices than temporary work firms because very few large firms have a large number of branch offices throughout the Netherlands. There are also 1,500 registered firms (with over 1,900 branch offices) that are not affiliated to an employers' association. There are therefore about 5,000 registered branch offices altogether. Of the 1,900 branch offices not affiliated to an employers' association, 750 are believed to engage in illegal temporary work activities. It is estimated that they lend out somewhere between 7,500 and 15,000 illegal workers. In addition, there is a considerable group of non-registered small firms that account for 40,000-65,000 illegal temporary workers each year<sup>89</sup>.

The number of temporary agency workers varies from one source to the next. The number of people in temporary employment per year is estimated to be around 650,000-750,000 (i.e. +/- 10% of total employment in 2003) and, according to the CBS, it represented 178,000 full-time equivalents in 2002. According to the agency charged with implementing the employees' insurance scheme (UWV), there were 345,306 tenures, which is higher than the number of workers as people often hold several tenures. However, the CIETT says that there were 268,000 workers (workers working one day) altogether in 2000-2001. Discrepancies between the various figures can possibly be attributed to the way in which they are counted: for example, the CBS only includes people working for at least 12 hours. Another distorting factor might be the fact that branch organisations often include people who are sent on secondment (detachment) as well.

In 2002<sup>90</sup>, 53% of people in temporary work were men. Temporary workers are very young: 41% of them are under 25 years of age and 30% are aged between 25 and 35. Also, 52% of agency work is manual labour, 32% is office work, and 16% is other kinds of work. The spread across sectors is as follows: 1% in agriculture, fishing, and mining; 30% in industry; 2% in construction; 12% in trade, repair, and consumer businesses; 10% in transport and logistics; 18% in services to businesses; 15% in public administration and social security; and 12% in healthcare and social services.

In general terms, temporary agency workers are in a weak position in the labour market.

Due to the fact that the temporary work sector is very sensitive to economic developments such as booms and recessions, the recession in the early 1980s and the recent economic downturn have been clearly reflected in declining temporary employment figures.

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increase in the costs and risks associated with temporary employees. Another finding is that the F&S Act has negatively impacted on employees in a weak position on the labour market (e.g. such older people and members of minority ethnic groups). However, these issues also largely apply to other (temporary) contracts.

<sup>89</sup> The increase in illegal temporary employment can be attributed to the abolition of the licence system in May 1998 (see above), but other factors, such as economic conditions and the way companies register also need to be taken into account.

<sup>90</sup> Source: E.E. Berkhout and M.J. Van Leeuwen, International Database on Employment and Adaptable Labour (IDEAL) - Randstad Jobs Report, *Stichting voor Economisch Onderzoek*, Foundation for Economics Research, University of Amsterdam, 2004.

## 2. Social dialogue in the sector<sup>91</sup>

There are numerous distinctions between agency workers and people working directly for the firm, and they in turn derive from differences between the collective agreements covering them. These differences mainly concern rights in the case of illness and disability or the absence of work, pension arrangements, and the period of notice before terminating the contract. There are also differences between employees working directly for the firm; these depend on the firm and on which collective agreement applies. The WAADI Act stipulates that agency workers must receive the same remuneration as workers employed by the hiring firm, unless the collective agreement specifies otherwise.

There are five types of collective agreements in the temporary work sector:

- the first two are concluded by the ABU and the FNV Allies, CNV Service Union and De Unie trade unions; one is for temporary workers, and the other is an agreement for permanent employees working for temporary employment agencies;
- the next two agreements are similar to the ABU agreements in the sense that there is one for temporary agency workers and another for permanent employees of temporary work agencies; the difference is that they are concluded by the employers' association NBBU together with the National Interest Association, LBV. Although FNV Allies participated in the negotiations, the NBBU collective agreement was only signed by the LBV and not by the large trade unions. This association is not affiliated to a trade union federation;
- the fifth type is the company-level agreement.

There has been a new ABU collective agreement for temporary work agencies since 1 April 2004. This agreement<sup>92</sup> directly covers 302,390 temporary agency workers and 282 temporary work firms (3,050 branch offices) and, after a general extension decided by the government<sup>93</sup>, 420,690 temporary agency workers<sup>94</sup> and 5,000 temporary work agencies. Most

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<sup>91</sup> Employers' organisations and trade unions in the Netherlands are often referred to as "social partners". They are broadly representative interest organisations, even though they may only have moderate levels of membership. The Collective Agreement Act of 1927 does not lay down any quantitative criterion for representation. Trade unions and employers' associations only need to be independent organisations and register as formal associations, lodging their names, aims and statutes. Consultation and concertation take place at national level in the tripartite Social Economic Council (SER) and the bipartite Foundation of Labour (STAR); these institutions perform a role in wage policies, labour market policies and social security. There are also consultation bodies at sectoral, regional and enterprise level. The STAR's national consultation procedures provide informal co-ordination, and officials negotiating sectoral collective agreements usually apply its recommendations. At enterprise level, there are works councils made up of unionised and non-unionised workers. Over 80% of wage earners in the market sector are covered by a collective agreement. Since union membership in the market sector as a whole is much lower at around 20%, the high coverage rate can only be reached because of three other factors: firstly, the high level of employers' organisation, which applies in most sectors; secondly, the application of contracts to non-union members in firms belonging to employers' federations that have signed a contract (the so-called "erga omnes clause" in Article 14 of the Collective Agreement Act of 1927); and thirdly, the extension of collective agreements by the government (Extension and Nullification of Collective Agreements Act of 1937).

<sup>92</sup> Sources: Ministry of Employment and Social Affairs and the organisations.

<sup>93</sup> The Dutch law on general extension empowers the Minister of Employment and Social Affairs to make exceptions to the general extension. Employers regularly file for exemption from the collective agreement on the grounds that they are directly (i.e. not through general extension) covered by another lawful collective agreement (often negotiated at company level). A number of temporary work agencies regularly appeal against the general extension. As a result, the previous collective agreement (1999-2003) was not generally extended until July 2003. Most of the agencies that put forward these objections are affiliated to the NBBU, so when the ABU collective agreement was extended in 2003, the NBBU was granted an exemption. One of the claims put forward for dispensation is related to the fact that very small temporary work agencies have negotiated their own company-level collective agreements; another is that the activities of companies subject to the general extension vary substantially from the activities that fall within the scope of the collective agreement.



of the provisions contained in this collective agreement are valid for five years (for one year in the case of permanent employees working for temporary employment agencies). Wage levels are potentially subject to annual revision.

The four-stage system of the 1999-2003 ABU collective agreement (which resulted from the introduction of the Flexibility and Security Act) is being replaced in the 2004-2009 collective agreement by a system consisting of three stages: A, B and C. These three stages reflect the way that a temporary worker's legal status is determined. As in the previous agreement, the higher the stage that an employee has reached, the more secure his/her legal status (and therefore his/her connection with the temporary work agency) becomes. The result is that the temporary agency worker can be lent out for a longer period of time, that is to say 26 weeks of continuous work for the temporary work agency within a period of 78 weeks (Stage A). Stage A can be regarded as the one at which employees are hired out according to pure temporary work conditions. The temporary work conditions entail that when the hiring firm ends the contract with the temporary work agency, the worker has no job and no pay<sup>95</sup>. When a temporary worker falls ill, the working contract with the hiring firm is automatically terminated. After three months' work, the hiring firm has to give notice before terminating the contract. This period of notice increases with the duration of the work, and up to two weeks after a year's work. The worker receives no pay in the event of illness or disability. At stage A, the temporary worker can terminate employment with one day's notice. In the following two years (Stage B), the temporary employee is entitled to a temporary labour agreement, and up to eight agreements in two years. When a hiring firm terminates a contract during Stage B, the temporary work agency is required to offer the worker suitable alternative employment, or a percentage of the wage. At Stage B, the worker and the agency can both terminate the work, the periods of notice being higher than at Stage A. From Stage B onwards, a temporary agency worker starts to build up a pension. After Stage B, the employee is given a labour agreement with the temporary work agency for an unlimited period of time (Stage C). The notice period is now one month for both the worker and the temporary work agency, but the employer is obliged to find a replacement job for a certain number of months, and needs a permit to fire the worker. When the hiring company has no more work, the temporary work agency offers suitable alternative employment or continued pay. If the temporary worker refuses alternative suitable work, the right to pay or the help to find another job lapses. A newly introduced element in the 2004-2009 collective agreement is a personal training budget of 1 % of annual salary: this can be used any time as soon as the temporary worker is at Stage B. The 2004-2009 collective agreement has been described by some social partners as simpler than its predecessor: they also say that it creates more flexibility.

The NBBU collective agreements are valid from March 2004 to December 2008 (for temporary agency workers), and from July 2003 to July 2005 (for staff and office personnel). In spring 2004, this agreement covered 25,000 full-time equivalent workers and between 500 and 600 temporary work agencies. Unlike the ABU agreement, the NBBU agreement has no general extension. Another difference between the ABU and NBBU agreements for temporary workers concerns the extension of the waiting period for a permanent contract: the ABU has extended this waiting period from 1 year to 1.5 years, while the NBBU agreement has moved to 2.5 years. Another issue is that according to the ABU agreement, temporary employees receive payment according to the hiring company's conditions after 26 weeks. For the NBBU, this applies to all employees immediately.

Three company-level collective agreements have been recorded: at Van den Noordt, P'lease, and CF&F Payroll Services together with ES&T Payroll Services. Of these, the P'lease agreement was offered an exemption from the general extension to the ABU collective agreement.

An ongoing issue for debate in the temporary work sector is whether a temporary worker is remunerated according to the hiring company's wage system, as laid down in the collective agreement for the sector in which the company operates, or according to the wage system laid down in the collective agreement for temporary workers. These problems surrounding

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<sup>94</sup> People who are registered with a temporary work agency, but are not working, are not covered by the collective agreement.

<sup>95</sup> If a worker is ill, he/she receives sickness benefit from the state (i.e. 71% of the last earned wage). The collective agreement requires the agency to pay an additional 21%.

remuneration have been better regulated in the new 2004-2009 collective agreement, wherein an agency worker is paid according to the temporary work agreement for the first 26 weeks of employment. Although the collective agreement is valid for five years, the wage provisions can be re-negotiated annually<sup>96</sup>. Temporary workers' wage demands always "follow" the wage demands of some 30 other collective agreements. As a result, disputes relating to collective agreements are rarely about wage increases; instead, they often focus on the application of the hiring company's collective agreement or the temporary agency worker's agreement.

There are also several boards and committees such as the pension fund, the training and development fund, and the foundation for observance of the collective agreement for temporary workers (SNCU). Employers' and employees' associations together with representatives of the Ministry of Employment and Social Affairs also sit on a business committee for improving labour conditions in the temporary work sector.

### 3. Organisations active in the sector

#### Employers' organisations

The **ABU (General Federation Temporary Work Agencies - Algemene Bond Uitzendondernemingen)** is the largest employers' association in the temporary work sector. With over 280 members, including a number of very large firms, the ABU represents approximately 90% of the market for temporary agency work. See above for the collective agreement.

The **NBBU (Dutch Federation of Mediation and Temporary Work Agencies - Nederlandse Bond van Bemiddelings- en Uitzendondernemingen)** has 327 members, of which 282 own more than 3,000 temporary work branch offices, and 45 smaller member firms own over 500 temporary work branch offices<sup>97</sup>. See above for the collective agreements.

#### Workers' organisations

The three labour unions that negotiate collective agreements for the temporary employment sector are the **FNV Allies (Confederation of Dutch Trade Unions Allies- Federatie Nederlandse Vakbeweging Bondgenoten)**, the **CNV Service Union (Christian National Union Confederation Service Union - Christelijk Nationaal Vakverbond Dienstenbond)**, and **De Unie (National Union Confederation for Staff and White-collar Employees)**. They are said to represent under 1% of temporary agency workers, although it is particularly difficult to determine the accuracy of this figure. Very approximately 5,000-10,000 temporary agency workers<sup>98</sup> are trade union members. It is estimated that the FNV represents around 75% of organised temporary agency workers, De Unie 15%, and the CNV 10%. It is hard to be sure about how many union members work through a temporary work agency, because

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<sup>96</sup> The trade unions often prefer to negotiate agreements annually. The collective agreement for temporary agency workers both serves to secure the legal status of temporary employees (which is to be laid down for as long a period as possible) and determines pay, and related issues such as holidays, which are preferably adjusted each year.

<sup>97</sup> The NBBU is said to have 228 members and 450 branches offices in a recent survey titled "Across the border".

<sup>98</sup> The figure of 5,000 is given by the employers' association ABU. The European Foundation for the Improvement of Living and Working Conditions estimates 10,000 for 1999 (Eurofound, 2002)

temporary agency workers often join a union as employees of the company that hires them, and not as workers for the temporary worker agency; it follows that overall trade union density is difficult to calculate<sup>99</sup>.

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<sup>99</sup> There is a fourth organisation active in the sector: the LBV (Landelijke Bedrijfsorganisatie Verkeer). The LVB is entirely independent: it is not affiliated to the FNV, or to the CNV or the MHP, and it is not a member of UNI-Europa. The LVB has about 10,000 members, but that is the overall figure, and does not solely include the NBBU-agreement.

# The Netherlands

## Elements relating to the organisations

### *Employers' organisations (2003/2004 - Sources: the organisations)*

Organisation		Sub-sectors covered	Companies	TAWs	Density Companies	Density TAWs	CB	National affiliations		European affiliations		International affiliations	
<u>Original name</u>	<u>English name</u>		<u>Number</u>	<u>Number</u>	<u>%</u>	<u>%</u>	<u>Yes/No</u>	<u>Direct</u>	<u>Indirect</u>	<u>Direct</u>	<u>Indirect</u>	<u>Direct</u>	<u>Indirect</u>
<b>ABU</b> - Algemene Bond Uitzendondernemingen	General Federation of Temporary Work Agencies		282	n.a.	90% (estimate)	n.a.	Yes	VNO-NCW, AWWN, MKB Nederland	No	Euro-CIETT	No	CIETT	No
<b>NBBU</b> - Nederlandse Bond van Bemiddelings- en Uitzendondernemingen	Dutch Federation of Mediation and Temporary Work Agencies		327	n.a.	10% (estimate)	n.a.	Yes	VNO-NCW, MKB Nederland	No	No	No	No	No

TAWs: temporary agency workers

Density companies: number of companies affiliated / total number of companies in the sector

Density TAWs: number of temporary agency workers in the affiliated companies / total number of temporary workers in the country

CB: Does the organisation take part in collective bargaining?

n.a. : not available

### *Trade unions (2003/2004 - sources: the organisations)*

Organisation		Types of TAW	Members	Members working as TAWs	Density	CB	National affiliations		European affiliations		International affiliations	
<u>Original name</u>	<u>English name</u>	<u>Type</u>	<u>Number</u>	<u>Number</u>	<u>%</u>	<u>Yes/No</u>	<u>Direct</u>	<u>Indirect</u>	<u>Direct</u>	<u>Indirect</u>	<u>Direct</u>	<u>Indirect</u>
<b>FNV Allies</b> - Federatie Nederlandse Vakbeweging Bondgenote	Confederation of Dutch Unions Allies	All	n.a.	6,000 (estimate)	n.a.	Yes	FNV	No	UNI-Europa	ETUC, IVVV (both via FNV)	UNI	No
<b>CNV Dienstenbond</b>	Christian National Union	All	36,000	1,000 (estimate)	n.a.	Yes	CNV	No	UNI-Europa	No	UNI	No

d - Christelijk Nationaal Vakverbond Dienstenbond	Confederation Service Union											
De Unie	National Union Confederation for Staff and White-collar Employees	All	100,000	1,500 (estimate)	n.a.	Yes	DE Unie/MHP federation	No	UNI-Europa	No	UNI	No

TAWs: temporary agency workers

Density: number of temporary agency workers affiliated to the organisation / total number of temporary agency workers in the country

CB: Does the organisation take part in collective bargaining?

# PORTUGAL

## 1. Description of the sector

### Legal framework and delimitation of the sector

In Portugal, a triangular legal relationship consisting of the temporary work enterprise (ETT), the temporary worker and the user enterprise is based on two contracts that are legally distinct from one another, yet functionally interdependent. The worker is legally bound to the ETT: it recruits and pays the worker, and it is obliged to provide insurance against work-related accidents and meet all social security obligations. The user enterprise directs the work, has authority over the worker, determines working hours, total remuneration and conditions of work, and can carry out quality control.

Under the terms of the legislation governing temporary work (Decree-Law No 358/89 of 17 October 1989), a temporary worker is entitled to the minimum remuneration determined by law, or set out in the instrument of the collective labour regulation applicable to the user for the occupational category that corresponds the duties performed, unless a higher rate of remuneration is paid by the user for doing the same work. An exception is always made in respect of higher remuneration determined by the instrument of the collective regulation applicable to the temporary work enterprise. The temporary worker is also entitled to holidays, a holiday subsidy, a Christmas subsidy and other regular and periodic subsidies (in proportion to the duration of the contract) paid by the user company to workers doing the same work. Although contractually bound to the ETTs, a number of user enterprises give temporary workers the same social benefits (e.g. meal subsidies) they give to their own employees.

Law No 146/99 of 1 September 1999 bans the use of temporary workers to perform tasks that are particularly dangerous to their safety or health (Article 20(3)).

Temporary work enterprises must have prior authorisation to work in this field. Before being recognised as ETTs, they must obtain a licence from the Ministry of Labour and Social Security (MSST), but not before furnishing proof of their competence and technical capacity, and they must then pay a guarantee to the Employment and Occupational Training Institute (IEFP), thereby ensuring that the salaries and additional expenses of workers doing temporary work continue to be covered.

### Socio-economic features of the sector<sup>100</sup>

In 2000, there were 281 temporary work enterprises employing 47,748 people (including employees working in the temporary work enterprises themselves). In April 2004, according to IEFP, there were 255 legally registered temporary work enterprises. In 2000, 34.06% of ETTs employed fewer than 10 workers and 16.80% employed 200 or more. In 2001, the sector had a turnover of EUR 576,449,000, and a gross added value of EUR 454,224,000.

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<sup>100</sup> Statistical data on the sector for 2001 and 2000 are based on statistics published by the National Statistics Institute (INE) (Economy and Finance, Statistics on Enterprises and Statistics on Enterprises and Establishments) and by the MSST Statistics Department on Labour, Employment and Occupational Training (DETEFP) (Lists of Personnel).

Temporary work was originally developed to meet exceptional and unforeseen manpower needs in enterprises, but it is now used in Portugal on a recurring basis, particularly in certain sectors of activity (e.g. construction, hotels, clothing, shoes, foodstuffs, wood, cork and furniture) in order to make enterprises more flexible.

There has been a marked growth in temporary work: it is particularly well established in small and medium-sized enterprises, and tends to be found in particular regions, with most of the sector's enterprises located in the Lisbon and Tagus Valley regions and in the north, thereby reflecting the general distribution of enterprises in Portugal. It is an expanding sector of activity.

Most temporary workers in Portugal have low employability levels, or else they are retired and need to supplement their pensions. In general, they have poor levels of qualifications and low standards of education. There is also a large number of young people (in 2000, 60.74% were under 30 years of age), and most of them women, who are looking for their first job but lack any employment experience. In these cases, the aim is to find opportunities to acquire the kind of work experience that employers consider to be increasingly important.

To a certain extent, the gender division is balanced and is in line with traditional sectoral segmentation, although there is a predominance of women in some cases. The sector is moving towards a balance, but there are still larger numbers of qualified women and unqualified men in the temporary work market. It is possible to speak of over-qualification in the case of women, as most of them are graduates doing jobs that do not require a degree.

In recent years, some ETTs have specialised in the supply of qualified professionals, but most Portuguese user companies requiring temporary workers are usually looking for low-skilled occupational categories (e.g. drivers, errand boys, warehouse assistants, waiters/waitresses, housemaids, store hands, packers, computer operators to enter data, kitchen assistants, sales promoters, telephonists and handymen) and categories with higher qualifications (e.g. administrative staff, secretaries, receptionists, call-centre operators, telemarketing operators, accountants and bank clerks).

## 2. Social dialogue in the sector

A large number of ETTs opened up in the 1980s, and the lack of regulations covering temporary work resulted in the sector developing in a marginal manner even though temporary work contracts were formally recognised by law.

Dialogue took place among the various ETTs from 1980 onwards with a view to forming a sectoral association, and thereby a commitment to fair competition, good commercial practices and respect for the rights of temporary workers. The Portuguese Association for Temporary Work Enterprises (APETT) was formed in 1987.

A collective labour contract for the sector was signed in 1989 between the APETT and the Federation of Commerce and Service Workers' Unions (Federação dos Sindicatos dos Trabalhadores de Comércio e Serviços, FETESE). It was published in the Bulletin of Labour and Employment (Boletim do Trabalho e do Emprego, BTE) 1<sup>st</sup> series, No 47 of 22 December 1989. Although the contract was never put into practice, it had a considerable influence on the law, which was also published in 1989.

The first Portuguese law on this matter, Decree-Law No 358/89 of 17 October 1989, sought to regulate "the activities of temporary work enterprises, their contractual relations with temporary workers and the system of the occasional hiring-out of workers" to clarify the objectives of this kind of contract, and to ensure that workers had social protection; it was subsequently amended by Law No 39/96 of 31 August 1996, and Law No 146/99 of 1 September 1999<sup>101</sup>. The views of workers' and employers' representatives were listened to, and their proposals were considered, when the law was being drafted in 1989.

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<sup>101</sup> Applicable general legislation relating to such issues as maternity protection, student workers, holidays and temporary contracts should be consulted in relation to matters not covered by these laws.

Since then, according to the APETT, the trade unions have not shown any interest in collective bargaining in the sector, although the association points out that it was necessary to go ahead with a collective labour contract that also covers permanent workers in ETTs.

The Labour Inspectorate-General (IGT) and the Social Security Inspection Services initiated an inspection of temporary work between October 1998 and April 1999, and looked at an equal number of ETTs and user enterprises. These inspections, which also involved the social partners (i.e. the APETT), were designed to raise awareness in user enterprises and highlight the ETTs' pledge to self-regulate the sector.

The perception of those involved is that there is a great deal of illegality in this sector of activity. There is talk of many ETTs with no licence, and even of some that do have a licence but do not comply with current legal obligations relating to the payment of social security and other taxes.

The main aim of the legislation that came into force in 1999 (Law No 146/99 of 1 September 1999) is to create a climate of greater legality and check the spread of ETTs working illegally. The penalties and the greater guarantees imposed are intended as a response to this demand for greater legality in temporary work.

The sector's social partners are the Portuguese Association of Temporary Work Enterprises (APETT), the Federation of Commerce and Service Workers' Unions (FETESE) (linked to the General Workers' Union (UGT)) and the Portuguese Federation of Trade Unions of Commerce, Offices and Services (Federação Portuguesa dos Sindicatos do Comércio, Escritórios e Serviços, FEPCES), which is linked to the General Confederation of Portuguese Workers (CGTP)). The following bodies are recognised by the main partners as playing an important role in the sector's industrial relations: representatives of user enterprises, the Confederation of Portuguese Industry (CIP), the Confederation of Portuguese Tourism (CTP), the Confederation of Portuguese Trade and Services (CCP) and the National Agriculture Confederation (CNA).

Social dialogue is organised on bipartite and tripartite lines. There is a tripartite working group at IGT level to monitor the sector, and with autonomous parties, the tripartite model is the most developed.

The main bargaining issues are salary scales, meals subsidies and occupational health and safety. The main sources of tension in social dialogue are interpretation of the law and compliance with it. Disagreements over compliance relate to working hours, holiday pay, pay on national holidays, and payments due when the contract terminates.

According to the social partners in the sector, the main obstacle to the development of social dialogue is the fact that work is so precarious, and that representativeness is weak as a result. They also say that the enterprises themselves have weak structures. What is more, they think that there should be an interlocutor who represents all temporary work enterprises so that the collective bargaining can be more effective.

At present, the partners are committed to restructuring the sector by combating situations of illegality and attacking the informal sector so as to head off disputes between them.

### **3. Organisations active in the sector**

There is a single collective labour contract (CCT) in the temporary work sector between FETESE, to which SITESE and SINDCES are affiliated, and the APETT. It was published in the Labour and Employment Bulletin, 1st series, No 47 of 22 December 1989. Other trade unions have signed collective agreements, but they are not linked to the temporary work sector.

#### **Employers' organisations**

The APETT (Portuguese Association for Temporary Work Enterprises – Associação Portuguesa das Empresas de Trabalho Temporário) was founded in 1987 by eight



temporary work enterprises (ETTs). It is a national association and covers all sectors of temporary work. It acts politically and socially in defending the activity, and is aware of its importance both for the regional and national economies and for employment. The association has an office that provides members with legal support, disseminates information that is relevant to the business activity, and defends the sector's interests in exchanges with the public administration and other social partners. Since it was founded, the APETT has been a member of the CCP (Confederation of Commerce and Services of Portugal), and has played important roles in business association activities. The sector is widely acknowledged by all the social partners.

## **Workers' organisations**

The **SITESE (Union of Office, Commerce, Service and New Technology Workers' Unions – Sindicato dos Trabalhadores de Escritório, Comércio, Serviços e Novas Tecnologias)** is a trade union association that recruits salaried staff and self-employed workers (as long as they have no one working for them) who work in offices, commerce, hotels and services. The rate of unionisation among temporary agency workers is very low. The SITESE has taken part in study/work meetings with the IAFP, the IGT and the APETT with a view to obtaining a suitable legal framework, and in order to be able to evaluate temporary work and compliance with the law, specifically with regard to enterprises that work on the margins of the law.

The **SINDETELCO (Democratic Trade Union of Communication and Media Workers – Sindicato Democrático dos Trabalhadores das Comunicações e dos Media)** was founded on 8-9 April 1981 in the telecommunications sector, and began representing the postal service sector on 1 July 1981. The union's constituency was extended to cover the graphics sector in April 2002. Currently, it has members in the postal services, telecommunications, media and graphics enterprises, and in a group of enterprises that operate in telecommunications (e.g. call-centre management enterprises, temporary work enterprises and security enterprises). The members are middle and senior management, workers in skilled and highly skilled occupational categories, administrative workers, people who deal directly with the public, and workers in distribution.

The **SITESC (Trade Union of Office, Service and Commerce Workers – Sindicato dos Trabalhadores de Escritório, Serviços e Comércio)**. No response from this organisation.

The **SINDCES (Democratic Trade Union of Commerce, Offices and Services – Sindicato Democrático do Comércio, Escritório e Serviços)** was founded on 30 May 1941 as the National Union of Office Workers and Shop Assistants in the Aveiro District. It is a national organisation, but mainly represents workers in the Aveiro district, which is where 82% of its members come from. It has been involved in 102 collective labour agreements covering service workers, but it does not directly coordinate collective labour agreements in the ETT sector; instead, it signs them through delegated representation in the FETESE.

The **CESP (Trade Union of Portugal's Commerce, Office and Service Workers – Sindicato dos Trabalhadores do Comércio, Escritórios e Serviços de Portugal)** was founded in March 1998 as a result of a merger of several trade unions. It represents skilled workers employed by large retailers, and in traditional commerce and some service areas: 70% of the members are women, 30% are men; 27.5% are young workers under the age of 30, and 76.5% of these are women and 23.5% men.

## PORTUGAL

### Elements relating to the organisations

#### *Employers' organisations (2004 - Source: the organisation)*

Organisation		Sub-sectors covered	Companies	TAWs	Density Companies	Density TAWs	CB	National affiliations		European affiliations		International affiliations	
<u>Original name</u>	<u>English name</u>		<u>Number</u>	<u>Number</u>	<u>%</u>	<u>%</u>	<u>Yes/No</u>	<u>Direct</u>	<u>Indirect</u>	<u>Direct</u>	<u>Indirect</u>	<u>Direct</u>	<u>Indirect</u>
APETT - Associação Portuguesa das Empresas de Trabalho Temporário	Portuguese Association of Temporary Work Enterprises	All	50	+/- 32,900	30%	+/- 70%	Yes	CCP	No	Euro-CIETT	No	CIETT	No

Density companies: number of companies affiliated / total number of companies in the sector

Density TAWs: number of temporary agency workers in the affiliated companies / total number of temporary workers in the country

CB: Does the organisation take part in collective bargaining?

#### *Trade unions (2004 - Source: the organisations)*

Organisation		Types of TAW	Members	Members working as TAWs	Density	CB	National affiliations		European affiliations		International affiliations	
<u>Original name</u>	<u>English name</u>	<u>Type</u>	<u>Number</u>	<u>Number</u>	<u>%</u>	<u>Yes/No</u>	<u>Direct</u>	<u>Indirect</u>	<u>Direct</u>	<u>Indirect</u>	<u>Direct</u>	<u>Indirect</u>
SITESE - Sindicato dos Trabalhadores de Escritório, Comércio, Hotelaria e Serviços	Union of Office, Commerce, Service and New Technology Workers' Unions	Salaried staff and self-employed workers (as long as they have no one working for them) who work in offices, commerce, hotels and services,	n.r.o	n.r.o	n.r.o	Yes	UGT, FETESE	No	ETUC, EFATT, UNI-Europa	No	UNI	ICFTU

<b>SINDETELCO</b> - Sindicato Democrático dos Trabalhadores das Comunicações e dos Média	Democratic Trade Union of Communication and Media Workers	medium and senior managers, workers in skilled and highly skilled professional categories, administrative workers, and workers in distribution	8,333	342 (52 in the Postal Service and 290 in Telecommunications)	0.72% (according to INE) ; 0.84% (according to DETEFP)	Yes	UGT, UGC, Agostinho Roseta	No	UNI-Europa	No	UNI	No
<b>SITESC</b> - Sindicato dos Trabalhadores de Escritório, Serviços e Comércio	Trade Union of Office, Service and Commerce Workers	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.
<b>SINDCES</b> - Sindicato Democrático do Comércio, Escritório e Serviços	Democratic Trade Union of Commerce, Offices and Services	Service workers	n.a.	n.a.	n.a.	Yes	UGT, FETESE	No	ETUC	No	ICFTU	No
<b>CESP</b> - Sindicato dos Trabalhadores do Comércio, Escritórios e Serviços de Portugal	Trade Union of Portugal's Commerce, Office and Service Workers		35,355	500	1.05% (according to INE); 1.23% (according to DETEFP)	Yes	CGPT-IN	No	ETUC	No	No	No

TAWs: temporary agency workers

Density: number of temporary agency workers affiliated to the organisation / total number of temporary agency workers in the country

CB: Does the organisation take part in collective bargaining? n.r.o: no response from the organisation

n.a.: not available

# SPAIN

## 1. Description of the sector

### Legal framework and delimitation of the sector

Spain's "Empresas de Trabajo Temporal", or temporary work agencies (TWAs), were placed on a legal footing in 1994 by Law 14/1994. As a result of this legislation, the activities of enterprises of this kind were regulated for the first time. Law 14/1994 defines TWAs as "enterprises whose activity consists of temporarily providing a user enterprise with workers recruited by the TWA".

The law excludes the use of temporary agency workers in the following situations:

- to replace workers on strike in the user enterprise;
- to perform tasks and activities especially hazardous to workers' safety and health;
- to replace jobs that have been eliminated by the user enterprise during the previous twelve months;
- to provide other TWAs with temporary workers.

In addition, the Contracts of Employment Act (LCT) prohibits public administrations from being contracted users of TWAs except for surveys, data collection and similar services.

### Socio-economic features of the sector

According to the Confederal Employment Secretariat of the Workers' Commissions (Comisiones Obreras, CCOO), the TWA sector is characterised by high concentration despite the large number of companies (326 at the end of 2003); however, just six groups (Adecco, Alta Gestión, Flexiplan, People, Randstad and Vedior Laborman) are responsible for 60% of the activity.

User enterprises are active in all sectors of activity except those legally excluded because they are especially hazardous to safety and health. Most of the providing contracts are located in the service sector: 57% of them are established in this activity, compared with 35% in industry, 5-6% in agriculture, and fractionally above 2% in building. In sub-sectors, hotels and tourism led the field with 20% of contracts in 2003, and the food and drinks industry and other commercial activities have approximately 8%. Most user enterprises are medium-sized and large.

In terms of employment, it is difficult to obtain precise figures for the number of temporary agency workers that TWAs have provided user companies with because of the high incidence of rotation, but it is estimated that there are between 130,000 and 360,000 on average every year (i.e. 1-2.7% of the total number of employees). A total of 1,329,309 providing contracts were signed in 2003<sup>102</sup>.

Contracts offered to temporary agency workers are often very short-term, and 25% of them are part-time. They are divided almost equally between men and women. A very large number of young workers are engaged in temporary work: according to the CCOO, 70% of temporary agency workers are under 30. The level of qualifications of temporary agency workers is extremely low: 64% have only completed primary studies, and 61% are unskilled.

It is noteworthy that TWAs manage almost 15% of temporary employment in Spain. This suggests that most flexibility in the Spanish labour market is achieved in other ways: for employers' organisations, this is related to legal restrictions on TWA activities, and for trade unions, to the fact that recruitment in Spain is not regulated and largely unmonitored. According to a CCOO report (2003), outsourcing to so-called service enterprises is becoming more widespread: unlike TWAs, these service enterprises are not obliged, for example, to pay their own workers the same wages as workers in the user companies, and nor do they have to allocate part of their turnover to training. Both trade unions and employers' organisations agree that TWAs should manage a significant proportion of temporary work, and that this is not happening at present.

## 2. Social dialogue in the sector

Law 29/1999 and the Third Collective Agreement for TWAs at national level introduced some important changes. They were that:

- wages, working time and other working conditions of temporary agency workers must be the same as those for salaried workers in the user company, and must comply with the collective agreement covering the user company;
- TWAs must give temporary agency workers the necessary training to deal with the occupational hazards they might encounter when performing their duties;
- TWAs must allocate 1.25% of total wage-sum to the training of temporary agency workers.

It follows that temporary agency workers' conditions of employment are regulated by the user company's collective agreement.

As far as the trade unions are concerned, the main bargaining issues are the security and quality of contracts, vocational development policies, wage policies, working hours, training, the prevention of occupational hazards, and the reconciliation of work and family life. For the employers' organisations, the main issue is the elimination of statutory limitations, restrictions and added costs laid down by current Spanish legislation (the 1% surcharge on social security contributions, the four extra days' compensation for termination of the employment contract, and the ban on contracts to work in especially hazardous sectors).

Workers provided by a TWA have the right to be represented by delegates or representatives in the user company in relation to any grievance regarding the conditions for carrying out their tasks. In this context, it is worth noting that there is an increasing tendency for a large number of collective agreements in many sectors of activity to include guarantee clauses for workers provided by a TWA.

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<sup>102</sup> Source: Ministry of Labour and Social Affairs.

### 3. Organisations active in the sector

Four employers' organisations (AGETT, AETT, ACETT and FEDETT) and two trade unions (COMFIA-CCOO and FeS-UGT) have been the most important social partners in social dialogue and collective bargaining from the outset. These organisations have been signatories to collective agreements at state level, and to most agreements relating to joining ongoing training agreements, the prevention of occupational hazards, and the establishment of the Union-TWA Foundation (SINDETT).

#### Employers' organisations

The **AGETT (Association of Large Temporary Employment Agencies - Asociación de Grandes Empresas de Trabajo Temporal)** represents six groups of temporary employment agencies. These groups are the largest in the sector. Enterprises within the AGETT operate throughout the country, and in all sectors of activity where they are legally permitted to do so. The AGETT claims that its affiliated enterprises account for 60% of recruitment in the sector<sup>103</sup>. Most of them are multinational corporations operating in Europe and the USA.

AGETT enterprises have a combined workforce of approximately 8,000, but it is difficult to estimate the number of temporary agency workers: the Association says that its companies concluded a total of 970,435 providing contracts in 2003.

The **FEDETT (Spanish Federation of Temporary Employment Agencies - Federación Española de Empresas de Trabajo Temporal)** is an umbrella body for enterprises and national-level employers' organisations that operate in all the economic sectors where they are legally permitted to do so. A total number of 90 TWAs are affiliated to the FEDETT, directly or through their affiliated associations. The FEDETT takes all kinds of enterprise into membership, but most of them are small. The organisation estimates that it has 28% of market share in the sector. The FEDETT is particularly important in the autonomous communities of Valencia and Murcia.

The FEDETT is not a member of any Spanish or international employers' organisation.

The **ACETT (Catalan Association of Temporary Employment Agencies - Asociación Catalana de Empresas de Trabajo Temporal)** has 34 member enterprises in Catalonia, all of them small or medium-sized. The Association claims 10% of market share in the sector.

The ACETT is not a member of any Spanish or European employers' organisation.

The **AETT (Temporary Employment Agencies Association - Asociación de Empresas de Trabajo Temporal)** claims to have 60 member enterprises, and 20% of market share in the sector.

The figures for market share are clearly over-estimates. Alternative estimates might be 45% for AGETT, 15% for AETT, 19% for FEDETT and 7% for ACETT.

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<sup>103</sup> In terms of providing contracts, and in respect of the corresponding percentages.

## Workers' organisations

The COMFIA-CCOO (**Workers' Commissions Federation of Financial and Administration Services - Federación de Servicios Financieros y Administrativos de Comisiones Obreras**) has a total of 80,000 members, 1,300 of whom are employed by TWAs. The organisation says it has 150 trade union delegates, and that its representativeness in the sector stands at 44.6%. The union has no information about how many members it has among temporary agency workers because rotation is very high, and they also tend to join the trade union federation of the user company.

The FeS-UGT (**Services Federation of the General Workers' Confederation - Federación de Servicios de la Unión General de Trabajadores**) has 100,000 members, of whom 350 work for TWAs. FeS-UGT has 166 workers' delegates for salaried employees in TWAs, and its representativeness in the sector therefore stands at 49.4%. The FeS-UGT also claims about 2,000 members employed as temporary agency workers.

ELA-Zerbitzuak (**Basque Workers' Solidarity - Eusko Langileen Alkartasuna – Solidaridad de Trabajadores Vascos**) is restricted to the autonomous communities, and operates exclusively in the communities of the Basque Country and Navarra. ELA-Zerbitzuak had 22,340 members in 2003, but only 113 in temporary work agencies. The organisation does not know how many members it has among temporary agency workers. ELA-Zerbitzuak is not recognised as a representative union in the sector, and therefore does not take part in negotiations of the sectoral collective agreement and of other agreements at national level.

## SPAIN

### Elements relating to the organisations

#### *Employers' organisations (2003 - Sources: the organisations)*

Organisation		Sub-sectors covered	Companies	TAWs	Density Companies	Density TAWs	CB	National affiliations		European affiliations		International affiliations	
Original name	English name		Number	Number	%	%	Yes/No	Direct	Indirect	Direct	Indirect	Direct	Indirect
<b>AGETT</b> - Asociación de Grandes Empresas de Trabajo Temporal	Association of Large Temporary Employment Agencies	All (large companies)	6	350,000	3%	45%	Yes	CEOE	No	Euro-CIETT	No	CIETT	No
<b>AETT</b> - Asociación de Empresas de Trabajo Temporal	Temporary Employment Agencies' Association	All	60	n.a.	18%	15%	Yes	CEOE, CEPYME	No	Euro-CIETT	No	CIETT	No
<b>FEDETT</b> - Federación de Empresas de Trabajo Temporal	Spanish Federation of Temporary Employment Agencies	All (small companies)	90	n.a.	27%	19%	Yes	No	No	No	No	No	No
<b>ACETT</b> - Asociación Catalana de Empresas de Trabajo Temporal	Catalan Association of Temporary Employment Agencies	All small companies in Catalonia	34	20,000	10%	7%	Yes	No	No	No	No	No	No

TAWs: temporary agency workers

Density companies: number of companies affiliated / total number of companies in the sector

Density TAWs: number of temporary agency workers in the affiliated companies / total number of temporary agency workers in the country (in terms of providing contracts) – expert's estimate

CB: Does the organisation take part in collective bargaining?



*Trade unions (2003 - Sources: the organisations)*

Organisation		Types of TAW	Members	Members working as TAWs	Density	CB	National affiliations		European affiliations		International affiliations	
Original name	English name	Type	Number	Number	%	Yes/No	Direct	Indirect	Direct	Indirect	Direct	Indirect
COMFIA-CCOO - Federación de Servicios Financieros y Administrativos de Comisiones Obreras	Workers' Commissions Federation of Financial and Administration Services	All	80,000	1,300 (in temporary work agencies)	Not available	Yes	CCOO	No	UNI-Europe	ETUC	No	ICFTU, UNI
FeS-UGT - Federación de Servicios de la Unión General de Trabajadores	Services Federation of the General Workers' Confederation	All	100,000	350 (in temporary work agencies), 2,000 (in user firms)	0.5-1.5	Yes	UGT	No	UNI-Europe	ETUC	No	ICFTU, UNI
ELA-Zeritzuak - Eusko Langileen Alkartasuna - Solidaridad de Trabajadores Vascos	Basque Workers' Solidarity	All (only in the Basque Country and Navarra)	22,340	113 (in temporary work agencies); not available (in user firms)	Not available	Yes (only at company level in the Basque Country and Navarra)	ELA	No	UNI-Europe	ETUC	No	UNI

TAWs: temporary agency workers

Density: number of temporary agency workers affiliated to the organisation / total number of temporary agency workers in the country

CB: Does the organisation take part in collective bargaining?

# SWEDEN

## 1. Description of the sector

### Legal framework and delimitation of the sector

Placement and recruitment activities, once the exclusive monopoly of the National Employment Agency (Arbetsförmedlingen), were opened up to competition in 1993. The activities of enterprises in the placement and recruitment sector are varied, and cover almost all of the economy. Legally speaking, temporary agency workers in Sweden are not covered by any specific legal regulation. Work contracts between temporary work agencies and employees may be fixed-term and even open-ended. Most branch collective agreements limit fixed-term contracts to 6 months, with an option to extend them to 12 months by agreement between the social partners at local level.

In statistical terms, the temporary work sector incorporates activities classified in Section K (Real estate, renting and business activities) and Section 74.5 (NACE nomenclature, sub-section 74700):

- 74.500: Labour recruitment and provision of personnel
- 74.501: Labour recruitment of personnel
- 74.502: Provision of personnel.

There are no legal restrictions on the sector in Sweden<sup>104</sup>. However there are restrictions from the Swedish national labour market board whereby a temporary worker who has part-time employment in a TWA enterprise does not qualify for compensation from the national unemployment fund for the amount of time that he/she is not employed. All other part-time employees have that right in Sweden.

### Socio-economic features of the sector<sup>105</sup>

There were approximately 1,440 Section 74.5 enterprises in Sweden in 2003; about 42% of them (605 enterprises) had no employees. Distribution by size of enterprise in the sector contrasts with that of the economy as a whole, and particularly with regard to the proportion of enterprises with no employees: this is considerably smaller in the temporary work field

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<sup>104</sup> The authorisation of staffing companies is a guarantee for customers. This authorisation has been awarded by the Swedish Association of Staff Agencies, the Swedish trade union confederation, LO and the Salaried Employees' Union HTF since 1 October 2004. Companies have to meet a number of requirements to achieve the authorisation; for example, they must follow the Association of Staff Agencies' ethical guidelines and have to be bound of by the collective agreements. The Authorisation Board consists of an impartial chair, one LO representative and a deputy member, one HTF representative and a deputy member, and two representatives from the Association of Staff Agencies and a deputy member. The authorisation is valid for one year and companies are assessed on an annual basis. The Authorisation Board submits recommendations to the Board of Directors as to which companies should be granted authorisation. The Board tests the applicant's qualifications in accordance with the statutes, and submits proposals on decisions regarding potential warnings or the rescinding of a granted authorisation.

<sup>105</sup> Sources: Swedish Institute of Statistics (SCB) and Andersson P. & Wadensjö E. (2003): In Arbetslöshetsförsäkring till alla ?, Anställda i bemanningsföretag och egenföretagare, Arbetsmarknad Arbetsliv, Årgång 9 nr 3-4, Hösten/vinter 2003, Stockholm.

(42% as compared with 75% for the whole of the economy). The sector is dominated by four large enterprises with more than 500 employees: their market share represents 90% of the sector, and their salaried employment share accounts for over 60% of employment in the branch.

In 2003, the branch accounted for about 1% of Sweden's employed active population, and 1.1% of salaried employment, that is to say about 40,450 salaried jobs (this figure includes open-ended contracts only). Large enterprises (with more than 100 employees) account for almost 76% of total employment in the sector.

User firms in sectors and activities with a large amount of temporary work are overwhelmingly in administration and management (about 40% of branch turnover), the industrial sector and inventory maintenance (22%), hotels, restaurants, commerce and IT (18%), and the care sector (17%). The latest figures, which cover the first six months of 2004 and come from a survey carried out by the Swedish Association of Staff Agencies, show that most temporary work is in administration and management (50%), industry and inventory maintenance (25%), healthcare (5%) and others (20%).

In 1999, almost 60% of employees in the branch were under 35, and about 60% were women. The level of training is not significantly different from that of the salaried population as a whole: about 18% of salaried employees in the branch had had an education lower than, or equal to, compulsory schooling, about 55% had a level corresponding to a secondary education diploma, and about 27% had received higher education.

## 2. Social dialogue in the sector

It is important to remember that legally speaking, temporary workers in Sweden are not covered by a specific labour regulation.

The temporary work sector has an employers' organisation, the Swedish Association of Staff Agencies (Bemaningsföretag), and there are three trade unions: the blue-collar Swedish Trade Union Confederation (Landsorganisationen, LO), the Salaried Employees' Union (Tjänstemannaförbundet, HTF), which belongs to the Confederation of Professional Employees (Tjänstemännens Centralorganisation, TCO), and a grouping of 10 federations known as the Akademikerförbunden, all of them part of the Swedish Confederation of Professional Associations (Sveriges Akademikers Centralorganisation, SACO)<sup>106</sup>.

Two collective agreements have been concluded for the whole of the sector. The first, which deals with blue-collar workers and has been signed by the 16 federations of the Swedish Trade Union Confederation (Landsorganisationen, LO) and the employers' organisation, the Bemaningsföretag, is interesting because it is one of the country's few interprofessional collective agreements, and covers all 16 federations in the LO Confederation, and therefore all occupational categories and all branches. A collective agreement has been concluded for white-collar workers by the employers' organisation, the Bemaningsföretag, and by the Salaried Employees' Union (Tjänstemannaförbundet, HTF), which is affiliated to the TCO Confederation (Tjänstemännens Centralorganisation) and the Association of Graduate Engineers, the Civilingenjörförbundet (CF); the latter negotiates on behalf of the other 9 federations in the grouping (Akademikerförbunden).

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<sup>106</sup> Sweden has three large trade union confederations: the blue-collar Swedish Trade Union Confederation (Landsorganisationen, LO), the white-collar Swedish Confederation of Professional Employees (Tjänstemännens Centralorganisation, TCO) and the Swedish Confederation of Professional Associations (Sveriges Akademikers Centralorganisation, SACO) for higher education graduates. The corresponding organisation on the employers' side is the Confederation of Swedish Enterprise (Svenskt Näringslivs). At over 80%, union density in Sweden is very high, and the coverage rate of collective agreements is approximately 90%.

The coverage rate of collective agreements is very high at around 80-90%. This high coverage rate is partly explained by the fact that all the large enterprises in the sector are affiliated to the employers' organisation, the Bemanningsföretag<sup>107</sup>. The coverage rate is also higher than the figure for union density because of the extension procedures (hängavtal) attached to collective agreements. Moreover, it is worth noting that there is an extension agreement for the care sector agreement between the Bemanningsföretag Federation and the Swedish Association of Health Professionals (Vårdförbundet)<sup>108</sup>, which is affiliated to the TCO Confederation (Tjänstemännens Centraorganisation). The most recent collective agreement between the Bemanningsföretagen Confederation and its opposite numbers was concluded in 2002. The agreements came into force in November 2002, and will be valid until 30 April 2004, that is to say they will last for two years.

In addition to general provisions relating to conditions of employment (e.g. dismissal notice, working hours, paid holidays, overtime pay, training and absences from work), the agreements set out rates of compensatory pay when employees of the job placement bureau are not sent out on assignments. According to branch collective agreements currently in force, fixed-term contracts may not exceed six months<sup>109</sup>; after that, in other words, at the end of the probationary period, the contract becomes fixed-term. When an employee with an open-ended contract is not sent out on an assignment, the rate of compensatory pay is 80% of salary for the first 18 months. White-collar workers receive all of their salary after the 18th month, and blue-collar workers 90% of average salary calculated over the last three months, whether or not they are sent out on temporary assignments. The main bargaining issues are salary levels, particularly the reference salary, and the compensatory salary level when employees are not on assignments.

### 3. Organisations active in the sector

#### Employers' organisations

The **Swedish Association of Staff Agencies (Bemanningsföretagen)** was founded in October 2003 on the initiative of the leading enterprises in the sector<sup>110</sup>. The Swedish Association of Staff Agencies is a member of the Almega Federation<sup>111</sup>, and currently has 350 affiliated enterprises: their placement and recruitment activities cover a wide range of sectors. Enterprises affiliated to the Bemanningsföretag cover about 75-80% of employment in the sector (i.e. approximately 30,000 salaried employees).

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<sup>107</sup> This rate, which has calculated on the basis of estimates provided by employers' organisation and trade union sources, is very high because the most important of the large enterprises are affiliated to the employers' organisation, the Bemanningsföretagens Förbund.

<sup>108</sup> The Vårdförbundet Federation organises nurses, midwives, radiographers and laboratory assistants. In 2003, it had 111,800 members. The Federation says it has no available figures for the number of members working in the branch.

<sup>109</sup> With a possibility of extending it to 12 months by agreement between the social partners at job placement bureau level.

<sup>110</sup> The Bemanningsföretagens Förbund Federation has replaced the Swedish Association of Temporary Work Businesses and Staffing Services (Svenska Personaluthyrnings- och Rekryteringsförbundet, SPUR) and the former Almega section that was responsible for the sector.

<sup>111</sup> The employers' organisation ALMEGA has 8,750 member enterprises in the service sector: they have a total workforce of 350,000 employees. These companies are members of seven employers' organisations which together form Almega. The Swedish Association of Staff Agencies (Bemanningsföretag) is one of them. ALMEGA is a member of the Confederation of Swedish Enterprise (Svenskt Näringslivs).

## Workers' organisations

The various trade unions in the temporary sector cover about 14,000 jobs, all categories included. In 2003, given employment volume of approximately 40,000 salaried employees, global union density came to about 35% (about 50% according to the trade unions). In 2003, given employment volume of approximately 40,000 salaried employees, global trade union density was about 35% (again about 50% according to the trade unions). For the most part, the figures provided on numbers of jobs and union density rates should be treated with some caution because of the different ways in which they are calculated. However, leaving these variations to one side, it cannot be gainsaid that at 80-90%, the coverage rate of collective agreements in Sweden is very high.

The representative blue-collar **LO (Swedish Trade Union Confederation - Landsorganisation)** was founded in 1898 on the initiative of the Social Democratic Party. It has 16 federations (Förbunden), and today has 1.9 million members distributed in 16 federations. It has the largest membership of all Swedish trade unions. The LO was originally made up of craft unions, but since the beginning of the 20<sup>th</sup> century has been organised on the basis of a vertical principle of branch affiliation. Its 16 federations have signed a joint collective agreement with the Bemanningsföretag employers' organisation. This interprofessional agreement is almost unique in Sweden. There are no exact figures for the number of members with employment in the branch. The LO claims union density of about 65%. Given employment volume of approximately 10,000 active blue-collar workers in the branch, it is estimated that there are 6,500 unionised salaried workers working in the temporary work sector (i.e. 0.3% of Confederation LO membership).

The federation with the fourth largest number of members (about 158,000 active members in 2003) within the Confederation of Professional Employees (Tjänstemännens Centralorganisation, TCO) is the **HTF (Salaried Employees' Union (Tjänstemannaförbundet))**. It has members distributed among white-collar staff in private-sector commerce, transport and services<sup>112</sup>; they are mostly white-collar workers and middle managers. In 2003, the federation had about 6,000 active members with jobs directly linked to the branch (i.e. about 3.8% of HTF members). Together with the Akademikerförbundet, the HTF has signed a branch-level collective agreement with the Bemanningsföretag employers' organisation. It says that about 80% of active salaried employees in the temporary work sector are in membership. In 2003, the **CF (Swedish Association of Graduate Engineers - Civilingenjörförbundet)** had about 99,000 members. It is the largest federation in the Swedish Confederation of Professional Associations (Svenska Akademikers Centralorganisation, SACO)<sup>113</sup>. This grouping of SACO federations is called the Grouping of University Graduates (Akademikerförbunden). As the Grouping does not have a legal status of its own as a moral person, the CF Federation negotiates for all federations that belong to it (i.e. those that jointly signed the collective agreement). As for the number of salaried employees in the branch, in 2003, the various federations had about 1,500 active members in jobs directly linked to the branch (i.e. about 0.5% of the membership of the 10 federations, including the CF

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112 The scope of collective agreements concluded by the HTF incorporates a wide range of activities including tourism (hotels, catering, airlines, coach firms, travel agencies and tourist amenities), wholesale and retail, transport (e.g. forwarding agents and hauliers), organisations (e.g. sports and other associations and political parties), institutions such as firms of chartered accountants, recruitment agencies and temporary work agencies, newspapers and the media (e.g. advertising agencies and information technology firms), private dental surgeries, and several other less important sectors.

113 The Association of Higher Education Graduates in Agronomy, Silviculture, Horticulture and Nutrition Sciences (Agrifack), the National Swedish Federation Economic and Commercial Science Graduates (Civilekonomerna), the Swedish Association of Graduate Engineers (Civilingenjörförbundet, CF), the Swedish Association of Graduates in Social Sciences, Personnel Administration, Management, Economics and Social Work (Akademikerförbundet, SSR), the Federation of Graduates in Law, Economics, Computer Science, Staff Administration and Social Sciences (JUSEK), the Swedish Federation of Church Personnel (Kyrkans Akademikerförbundet), the Swedish Federation of School Directors, Principals and Head Teachers (Skolledarna), the Federation of Scientific Personnel (Naturvetareförbundet), the Federation of Researchers and Cultural and Information Workers (DIK), and the Union of Swedish Psychologists (Psykologförbund). These Federations have about 280,900 members, and 325,900 if Swedish Federation of Graduate Engineers (Civilingenjörförbundet, CF) members are included. Altogether, these Federations, including the graduate engineers, represent over half of the SACO membership (i.e. 58%).

Federation). The CF Federation and the HTF Federation have together concluded one branch-level collective agreement with the employers' organisation, the Bemaningsföretag, on conditions of employment, and another specifically dealing with salaries.

## SWEDEN

### Elements relating to the organisations

*Employers' organisations (Sources: Statistics Sweden (SCB) for the number of enterprises (2003) and the Employers' organisation Bemanningsföretag for the number of companies affiliated (2004)).*

Organisation		Sub-sectors covered	Companies	TAWs	Density Companies	Density TAWs	CB	National affiliations		European affiliations		International affiliations	
<u>Original name</u>	<u>English name</u>		<u>Number</u>	<u>Number</u>	<u>%</u>	<u>%</u>	<u>Yes/No</u>	<u>Direct</u>	<u>Indirect</u>	<u>Direct</u>	<u>Indirect</u>	<u>Direct</u>	<u>Indirect</u>
Bemanningsföretagen	Swedish Association of Staff Agencies		343	30,000	43%	+/-75%	Yes	ALMEGA	Confederation of Swedish Enterprise (Svenskt Näringsliv)	Euro-CIETT	UNICE	CIETT	No

TAWs: temporary agency workers

Density companies: number of companies affiliated / total number of companies in the sector

Density TAWs: number of temporary agency workers in the affiliated companies / total number of temporary workers in the country

CB: Does the organisation take part in collective bargaining?

### *Trade Unions (2003 - Sources: the organisations)*

Organisation		Types of TAW	Members	Members working as TAWs	Density	CB	National affiliations		European affiliations		International affiliations	
<u>Original name</u>	<u>English name</u>	<u>Type</u>	<u>Number</u>	<u>Number</u>	<u>%</u>	<u>Yes/No</u>	<u>Direct</u>	<u>Indirect</u>	<u>Direct</u>	<u>Indirect</u>	<u>Direct</u>	<u>Indirect</u>
16 federations of Landsorganisationen i Sverige <sup>114</sup>	Swedish Trade Union Organisation	Blue-collar workers, all categories of personnel and occupations	1,918,800	6,500	16% (65%)	Yes	LO	No	ETUC, UNI-Europa	No	ICFTU, UNI	No
Tjänstemannaförbundet	Salaried Employees'	White-collar workers, office	158,000	6,000	15% (80%)	Yes	TCO	No	UNI-Europa, NTF, ETWU	ETUC, Eurocadres	UNI	ICFTU

<sup>114</sup> According to UNI-Europa, only some of the 16 federations of LO are members of Uni-Europa: Handels, Transport, Fastighets, Grafiska, SEKO

HTF	Union	staff, middle management										
CF - Civilingenjör örbundet*	The Swedish Association of Graduate Engineers*	Line managers in administration and business administration, human resource managers engineers, lawyers, economists, psychologists, scientists researchers, computer staff, information officers, librarians, public relations managers, translators etc	325,900	1,500	4% (50%)	Yes	SACO	No	UNI-Europa	ETUC, Eurocadres	UNI	ICFTU

TAWs: temporary agency workers;

Members: number of active workers

Density: number of temporary agency workers affiliated to the organisation / total number of temporary agency workers in the sector (within parenthesis union density evaluated by trade unions)

CB: Does the organisation take part in collective bargaining?

\* : + the 9 others federations in SACO



# UNITED KINGDOM

## 1. Description of the sector

### Delimitation and activities of the sector

According to the industry's trade association, the Recruitment & Employment Confederation (REC), the recruitment and staffing industry is a major service business operating in virtually all job markets and geographical areas. Coverage is approximately the same as that of the Annual Business Inquiry of the Office for National Statistics, for labour recruitment and provision of personnel NACE 74.5, suggesting a fair match between the scope of the statistical concept and the industry as seen by its key actors.

### Socio-economic features of the sector<sup>115</sup>

The basic legal framework for the temporary work agency sector is set out in the Conduct of Employment Agencies and Employment Businesses Regulations 2003, which govern the conduct of the private recruitment industry and establish a framework of minimum standards for both work-seekers and hirers (DTI 2004). The regulations distinguish between employment *agencies*, which introduce job-seekers to businesses that employ them directly, and employment *businesses*, which hire out the services of their own employees to other businesses on whose premises they usually work. In this report, the TWA sector is taken to cover primarily, but not exclusively, the first type of organisation.

The rate of growth of the industry has been rapid in recent years, with annual turnover increasing two and half times between 1995 and 2002, compared with a 25% increase for the whole economy, and gross value added increased by about the same amount, nearly four times the rate for the whole economy. Productivity in the sector has grown slightly faster, at 19%, compared with 12% in the whole economy between 1998 and 2002. This may reflect the labour-intensive nature of the activity coupled with the types of labour demanded by other business organisations.

Accompanying the steep rise in demand has been a doubling of the number of enterprises active in the industry, from just over 8,000 in 1995 to over 16,000 in 2002. There are many small enterprises in the sector, as the average employment size is under 50 employees.

The employment series are not available for as long a period, but there too, employment increased by 20% between 1998 and 2002, compared with 7% for the whole economy in that period. With the growth in the number of businesses in the sector, average employment size has fallen from 56 employees in 1998 to 45 employees in 2002. By 2002, the sector represented just over 3% of total employment (750,000 average during the year), up from about 2.8% in 1998. Average employment costs per head are about 90% of those of the whole economy. Note that statistical estimates while confirming overall trends, diverge quite strongly on the size of the sector (Hotopp, 2001).

An important element of the temporary work agency activities comprises work in the construction sector where a good deal of employment is through agencies rather than directly by construction firms. This represents a grey area in terms of the TWA sector as the employer is formally covered by one NACE classification, but the employees are providing their labour

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<sup>115</sup> Sources: Office for National Statistics, Annual Business Inquiry, 2002. and New Earnings Survey 2003, Data for April 2003. Note that the sector is statistically quite small, and therefore only limited breakdowns on employment structure and type of enterprise are published.

services in another. The policy of the largest trade union in the construction sector, Amicus, is for workers to be directly employed by construction firms, but tax scams make this hard. The growth of temporary work in the sector has also been associated with tax avoidance devices, and the offer of higher hourly pay rates in exchange for lesser benefits, such as holiday pay, especially in London and the south-east. The forthcoming change of tax rules as part of the reform of the Construction Industry Scheme (CIS) is expected to reduce the attractiveness of temporary and agency work contracts as opposed to direct employment by construction contractors (Inland Revenue 2003).

## 2. Social dialogue in the sector

Important influences on the conduct of the sector are the Conduct of Employment Agencies and Employment Businesses Regulations 1976, which repealed the 1976 Regulations of the same name, and came into force in April 2004. Further amendments may be necessary if and when the provisions of the EU Agency Workers Directive (AWD) are implemented into UK law.

Social dialogue in the sector is weakly developed at present. The unions have argued that especially for former public sector activities, the chief motivation of contracting out and using temporary employment agencies has been one of cost, to get the same work done at a lower cost than when it was undertaken by public employees covered by collective agreements<sup>116</sup>.

Union density in the sector is low, although the published Labour Force Survey data unfortunately relate only to the whole one-digit NACE group, and not to the individual three-digit activity.

There is no industry agreement for the TWA sector, and the general pattern in the UK is for agreements to be concluded between unions and single employers. As with collective bargaining throughout the UK, the norm is for agreements to be reached at the level of the individual employer, and there is no industry-wide bargaining in this sector. The big exception to this observation concerns the construction and contracting industry which is covered by collective agreements on pay and conditions, and in which unions and employers work closely in industrial training. These agreements, within the framework of the Joint Industry Board (JIB), cover the whole of the M&E (Mechanical and Electrical) and engineering construction sectors. The National Working Rules agreed within the JIB cover many employment and pay issues, including the conditions under which firms may subcontract employment of labour (JIB Handbook, 2004). A number of agency firms are signatories to these agreements, especially with regard to training, and others, according to Amicus, generally take the collective agreements as their "yardstick" for setting rates of pay.

Although there is no organised "social dialogue" in the sector in the continental European sense, there are several issues other than pay that are of joint interest and concern. Training and skills are one, as are health and safety and quality standards. Large employment agencies can assist the provision of temporary labour to their client organisations, while at the same time providing long-term employment to their own staff who have full employment contracts and associated rights and benefits, with possibilities for training and development for

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<sup>116</sup> The unions try to fight against it, but outside construction and contracting, they have made little headway. The only path open would be through Employment Tribunals, and some of the unions have been advertising their legal services to potential members.

multifunctional working (Manpower 2004)<sup>117</sup>. In doing so, they can reduce the pressure on their client organisations to meet short-term labour needs by means of casual labour. The unions have also sought to ensure that, when public sector employers hire agency services, their pay and conditions should be as good as those represented by a union.

### 3. Organisations active in the sector

On the employers' side, the Recruitment and Employment Confederation (REC) combines the functions of trade association and employers' organisation, but it does not engage in collective bargaining on behalf of its members.

A number of unions are concerned about temporary employees, whether in terms of representing them directly, or in terms of looking after the interests of their members whose jobs may be put in jeopardy by their employer's use of temporary and agency staff. However, of these, Amicus has a strong presence among temporary workers, about 10,000 members, owing to the prevalence of this form of work in the engineering and contracting branches of the construction industry. Other unions may have small numbers of employees in temporary work agencies owing to contracting out. Nevertheless, a number of these unions have sought to publicise the employment rights and health and safety issues for agency and temporary workers.

#### Employers' organisations

The **REC (Recruitment and Employment Confederation)** came into being in January 2000. It was formed from a merger of two long-established bodies in the recruitment industry: the Federation of Recruitment and Employment Services (FRES) and the Institute of Employment Consultants (IEC). The REC advertises a number of the services it offers to its members, corporate and individual: they include lobbying activities, legislation consultation, responses to Government consultations, training qualifications, legal advice and model contracts, a partner scheme, the Code of Practice, and work on quality standards.

An important part of the REC's representational activities concern lobbying and legislative consultation matters. For example, in the run-up to the amendments of the Conduct of Employment Agencies and Employment Businesses Regulations 1976, which came into force in April 2004, the REC pressed for the exemption of limited companies from the definition of work-seekers under the Regulations, or failing that, application of the Regulations to higher paid workers only, and for more appropriate treatment of online recruitment. The first exemption raises an important feature of the industry, namely that many higher paid and highly skilled workers in the sector work as "independent service providers", running very small, sometimes one-person, companies, selling services to other firms, and do not see themselves as "quasi-employees".

Within the sector, the REC offers specialist training and qualifications for the recruitment industry. All REC members are required to adhere to the REC Code of Good Recruitment Practice. REC membership ranges from small independent businesses to multi-national organisations.

Recognition for purposes of collective bargaining is covered by the new legal provisions for employee workplace representation and, where representation concerns employees who were formerly employed by another company, they are covered by Transfer of Undertaking Protection of Employment (TUPE<sup>118</sup>) regulations.

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<sup>117</sup> Manpower position paper – the role of the temporary work industry in supporting the Lisbon Agenda. November 2004

<sup>118</sup> The TUPE Regulations mean that if another firm takes over part or all of an existing firm, it has to respect existing collective agreements and terms of employment. Employers are not allowed by law to revise employees' terms of employment unilaterally, without their consent.

As mentioned above, the norm in the UK is for agreements to be reached at the level of the individual employer, and there is no industry-wide bargaining in this sector. Thus, the REC has no collective bargaining role on behalf of its member organisations.

It is worth noting that a number of leading agencies, such as Manpower, which is affiliated to Euro-CIETT, recognise the importance of training and well-regulated employment relations as key factors in the quality and flexibility of service they can provide their customer organisations.

In the construction and contracting sector, the key employer organisations are:

- Electrical Contracting: ECA (Electrical Contractors Association), and SELECT (Scottish Electrical Contractors Association);
- Plumbing and Mechanical Engineering sector: APHC (Association of Plumbing & Heating Contractors) and BEC (The Building Employers Confederation); and SNIPEF (Scotland & Northern Ireland Plumbing Employers Federation);
- HVACR (Heating, Ventilation, Air Conditioning, Refrigeration and Domestic Piping Industries(H&V) and HVCA (Heating & Ventilation Contractors Association);
- Heathrow Airport Major Projects Agreement: the BAA (British Airports Authority);
- Engineering Construction: ECIA (Engineering Construction Industry Association), TICA and SELECT.

In all the above cases, they have agreements with Amicus, except in the case of the latter, which also includes the GMB and the TGWU. However, in this latter case, employment is direct with no agency labour.

A notable feature of these sectors is the high degree of employer engagement in joint regulation of training. Apprenticeship remains the main path to higher blue-collar skills, and it is a transferable qualification so that firms have an interest in organising training collectively. Even agency workers need to be of the same level of skill for obvious safety and quality reasons.

Unlike the REC, most firms that are members of the construction and contracting employer organisations are not specialists in temporary employment. In contrast to what follows on the TWA sector, the construction and contracting employer associations have collective agreements on pay and conditions, and play a major role in the collective organisation of apprenticeship training for the sector through the various industry training boards.

## **Workers' organisations**

Because of the wide range of activities covered by temporary work agencies, many trade unions have a strong interest in the sector, both from the point of view of looking after the interests of their members in organisations which use temporary labour, and from that of employees working for the temporary work agencies.

A number of unions have members who work in temporary work agencies, notably those listed below, of which Amicus has the largest number. This can arise from management decisions, for example, to contract out work. However, because collective agreements and union organisation are generally reached with individual employers and are based on the workplace, it can be hard to keep track of members employed by agencies. The construction and contracting sector, represented by Amicus, is something of an exception to this rule because of the scale of agency work, and because it has been a long-term feature of employment in this sector. There, too, agency workers will be represented by the same unions as those for permanent workers directly employed by firms in the original sector (i.e. not by the agency).

**Amicus** has 1.3 million members, making it the UK's largest private-sector union covering every industrial, occupational and professional sector of the economy. It has about 85,000 members in construction and contracting (including paying retired members). It has a strong membership among agency workers (about 10,000) because of its position in the construction and contracting industry. Amicus also has several thousand construction workers offshore. Its membership across this industry is roughly as follows:

- **PMES (Plumbing, and Mechanical Engineering):** 75% membership density, with about 33,000 members (25,000 covered by the Joint Industry Board agreement, and 8,000 by the Scottish Joint Industry Board). The totals covered include some non-members.
- **HVACR (Heating, Ventilation, Air Conditioning, Refrigeration and Domestic Piping Industries):** membership density is about 50%, based on 23,000 workers in total; for white-collar workers, members of the EESA (part of Amicus) is about 65-70% (8,000 workers in total).
- **In Engineering Construction** it is 80%, with 20,000 workers constantly employed. Of this, Amicus has around 60% membership with the others split between the GMB and TGWU. Engineering Construction is directly employed with no agency labour.

The **GMB**<sup>119</sup> is Britain's fourth largest trade union with 700,000 members, and it represents members across a wide range of activities. In its Commercial Services Section it has nearly 70,000 members working in professional and service industries in the private sector.

The **GPMU (Graphical, Paper and Media Union)** has over 200,000 members in printing, paper, publishing and allied occupations. The union represents all people who work in these industries: production, clerical and administrative, male and female, full-time and part-time. It is currently in negotiations over a merger with Amicus.

**Prospect** has more than 105,000 members in the public and private sectors. Its members are engineers, scientists, managers and specialists in areas as diverse as agriculture, defence, energy, environment, heritage, shipbuilding and transport. It is the largest union in the UK representing professional engineers.

Prospect does have members who work through temporary agencies, but these are scattered across its membership, and, according to the union, probably account for about 1-2% of its membership overall, although this varies greatly between workplaces. It does not have any specific collective agreements for agency workers, and there are no European or international affiliations in respect of temporary workers.

Because a number of these workers are hired on a contract basis, the union provides advice in the form of its series of Personal Contract Briefings, some of which address the issue of how contract staff can redress the pay balance (e.g. Holiday pay decision boosts contract workers).

**USDAW (Union of Shop, Distributive and Allied Workers)** is one of Britain's largest trade unions with over 335,000 members nationwide. Its members work in a variety of occupations and industries, and it includes a managerial and supervisory section called Sata, the Supervisory, Administrative and Technical Association.

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<sup>119</sup> The GMB is now known by its initials. These originally stood for the 'General and Municipal and Boilermakers' Union', but recent mergers have extended its membership beyond these groups.

# United Kingdom

## Elements relating to the organisations

*Employers' organisations (2002 - Sources: the organisation and Office for National Statistics, Annual Business Inquiry)*

Organisation		Sub-sectors covered	Companies (in 2003)	TAWs	Density Companies	Density TAWs	CB	National affiliations		European affiliations		International affiliations	
Original name	English name		Number	Number	%	%	Yes/No	Direct	Indirect	Direct	Indirect	Direct	Indirect
REC – Recruitment and Employment Confederation		Services	6,500 (+ 5,500 individual members)	n.a.	+/- 50	n.a.	No	n.a.	n.a.	Euro-CIETT	n.a.	CIETT	n.a.

TAWs: temporary agency workers

Density companies: number of companies affiliated / total number of companies in the sector

Density TAWs: number of temporary agency workers in the affiliated companies / total number of temporary agency workers in the country

CB: Does the organisation take part in collective bargaining?

*Trade Unions (2003 – Sources: the organisations)*

Organisation		Types of TAW	Members	Members working as TAWs	Density	CB	National affiliations		European affiliations		International affiliations	
Original name	English name	Type	Number	Number	%	Yes/No	Direct	Indirect	Direct	Indirect	Direct	Indirect
Amicus		All	1.3 million	80,000 (construction and contracting), approx 10,000, possibly 20,000, agency workers and approx 15,000 on local authority contracts	Varies	Varies	TUC	n.a.	EMF, UNI-Europa (source: UNI-Europa)	n.a.	IFBWW, UNI (source: UNI-Europa)	n.a.
GMB			700,000	n.a.	n.a.	n.a.	TUC	n.a.	UNI-Europa	n.a.	UNI	n.a.

									(source: UNI-Europa)		(source: UNI-Europa)	
<b>GPMU</b> Graphical, Paper and Media Union			200,000	n.a.	n.a.	n.a.	TUC	n.a.	UNI-Europa (source: UNI-Europa)	n.a.	UNI (source: UNI-Europa)	n.a.
<b>Prospect</b>			105,000	n.a.	n.a.	None for TAWs	TUC	No	None for TAWs, UNI-Europa (source: UNI-Europa)	None for TAWs	None for TAWs, UNI (source: UNI-Europa)	None for TAWs
<b>USDAW -</b> Union of Shop, Distributive and Allied Workers			335,000	n.a.	n.a.	n.a.	TUC	n.a.	UNI-Europa (source: UNI-Europa)	n.a.	UNI (source: UNI-Europa)	n.a.

TAWs: temporary agency workers

Detailed estimates could not be derived because of the margin of uncertainty surrounding unions' membership figures in this sector and about the number of potential members among temporary agency workers. Collective bargaining is at present weakly developed for temporary agency workers.

Source: Amicus and union publications and websites