



Temporary agency work in the European Union



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European Foundation for the Improvement of Living and Working Conditions

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Foreword

This report on temporary agency work in Europe is based on material provided by 15 national reports commissioned by the European Foundation for the Improvement of Living and Working Conditions in 2000.

The subject of flexibility at work has been intensively debated over the past ten years by the European economic and social actors. In 1995 the European Commission initiated a consultation of the EU-level social partners (UNICE, CEEP, ETUC) on 'flexibility in working time and security for workers with regard to three forms of atypical employment: part-time employment, employment of limited duration and temporary agency employment'. Framework agreements were concluded on the first two of these atypical forms of work, and both are now EU directives. Negotiations on temporary agency work began in July 2000 but ended without an agreement in 2001.

The Foundation project was launched in a context where, during the 1990s, temporary agency work had become the most rapidly growing form of atypical employment. Since 1992, it has at least doubled in all Member States and has increased five-fold in countries such as Denmark, Spain, Italy and Sweden. Thus, to capture the diversity of the national situations, we commissioned 15 national reports.

This report emphasises the main trends in temporary agency work, and the problems and challenges it poses for the different Member States and the European Union as a whole. The focus is on three main areas:

- The working conditions of temporary agency workers, and the specific factors and features of such work that might help explain these conditions;
- Various labour market aspects of temporary agency work: the duration of contracts, labour market flows; the specific nature of the employment relationship; the behaviours and strategies of the main economic actors; and the issue of temporary agency work as a 'stepping stone' to the labour market;
- Collective bargaining related to temporary agency work, with a focus on trade union representation and access to participation for agency workers in the workplace; the extent of collective bargaining at the different levels (national/sectoral/corporate); and the issues at stake in negotiations and agreements.

This report should provide policy makers, economic and social actors and researchers with a useful source of information on temporary agency work. In the final chapter, the author draws some significant conclusions on, for example, the importance of equal treatment as regards pay and working conditions for agency workers and workers in the firms to which they are assigned.

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Director

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In most OECD countries, employment in temporary agency work (TAW) has been growing rapidly, and according to CIETT (2000), 2.2 million people were working in this sector in the European Union by 1998.¹ Agency work is not a new phenomenon: it has existed in Europe since at least the 18th century. However, its growth makes it the most recent expression of the increase in the atypical forms of employment that have been observed in the EU in the last two decades (see, for example, Bodin, 2001). It is also a sector that has seen appreciable deregulation in recent years (OECD, 1999; ETUI, 2000).

In 1995, the Commission launched a consultation of EU-level social partners on 'flexibility in working time and security for workers' with regard to three forms of 'atypical work': part-time work, work of limited duration and temporary agency work. Two framework agreements were concluded, one on part-time work in 1997 and another on limited duration work in 1999; both are now directives. Negotiations on temporary agency work commenced in July 2000 but subsequently ended without an agreement.

Temporary agency work is also a conceptually interesting form of employment, since it combines elements of both commercial and employment contracts, and brings a third party – the agency – into what was previously a two-party relationship. A definition of temporary agency work (although not fully applicable to all Member States) is one whereby the *temporary agency worker* is employed by the *temporary work agency* (TWA) and is then, via a commercial contact, hired out to perform work *assignments* at the *user firm*.² As argued in Schmid and Storrie (2001), emerging new contractual forms are seldom radically different from existing ones, but are rather hybrids, in this case a hybrid of an employment contract and a commercial contract.

The legal framework, as described in Chapter 2,³ shows that while the above is a workable definition of agency workers in most Member States, it does not apply so easily in Ireland or the UK. There are two main legal aspects to agency work: the regulation of the agency business itself and labour law regulation of contracts and assignments. The business is primarily regulated by means of licensing and monitoring procedures, and some countries curtail the scope of agencies' activities by, for example, prohibiting recruitment services. In most countries, labour law regulates not primarily the contract of employment, but rather the assignment at the user firm. This is typically the case in continental Europe. Collective agreements also play a role in regulating assignments and contracts. Typologies of regulation both in law and collective bargaining are presented at the end of Chapter 3.

Chapter 3 also looks at other collective bargaining issues. With temporary agency workers often changing workplace daily, it is intrinsically difficult to secure collective representation rights for them. Moreover, the 'dual employer' situation tends to complicate things further. Chapter 3 provides a description of the various means by which the Member States regulate representation rights. The structure of collective bargaining and the strategies of the two parties involved constitute the main focus of the chapter. In most countries, collective bargaining is relatively undeveloped. Two clear exceptions are the Netherlands, which is taken up separately in Chapter 2, and Sweden, which is dealt with in some detail in Chapter 3.

1 Founded in 1967 in Paris, CIETT is the International Confederation of Temporary Work Agencies. It brings together the national associations in the sector: enterprises which supply workers for temporary assignments at clients' premises.

2 See Appendix 4 for a definition of the terminology used in this report for various types of employment contract.

3 The legal aspects of health and safety are taken up in Chapter 6; those of worker representation in Chapter 3.

Chapter 4 is an empirical introduction to agency workers and agency jobs and is very detailed as regards statistical sources and problems. It is underlined that there are considerable deficiencies in the information available on agency work. The main problems are conceptual, as agency work is not a homogeneous legal phenomenon throughout the EU. Moreover, the hybrid nature of this *ménage à trois* makes the collection of statistics difficult. Agency work is a rather 'fuzzy' phenomenon. For example, the few Member States that include questions on it in their national Labour Force Surveys (LFS) have reported problems in the quality of interview responses.⁴ Most Member States have no information on agency work in their LFSs, and seldom does establishment-based employment data, often used in national accounts, provide an accurate sector classification of temporary agency work. A further statistical difficulty is that since much agency work is of short duration, it may be difficult to accurately capture the dynamics of such a rapidly moving target. Thus, in several Member States, one must rely on statistical sources provided by the TWA sector's national organisation. Our best estimate of the size of the sector puts the average number employed at a given point in time in 1999 at around two million, which corresponds to roughly 1.2% of total employment in the EU. The basic features of agency work/workers presented in Chapter 4 include the age, sex, and occupation of the workers, and the economic sector of the user firms. More sophisticated, dynamic, labour market data (although of even poorer quality) are presented in discussing job security in Chapter 6, as well as in Chapter 7, which examines agency work as a means of integrating workers into regular employment in the labour market.

While the focus of most of this report is on the impact of agency work on the workers, it is important to also emphasise the rationale behind it, particularly from the perspective of the user firm. As with limited duration contracts, the initiative for the growth of agency work has come from employers (as well as from the TWAs themselves, of course). Thus, the economic rationale for agency work may be seen as the primary reason for its growth. Focus is placed on risk diversification, the division of labour, job matching efficiency and flexibility. This economic and largely employer perspective is examined in Chapter 5. It is argued that there are good reasons to suppose that agency work may be a very efficient means of organising various types of economic activity from both a business and a macroeconomic perspective. However, there are some economic problems associated with agency work, primarily related to the difficulty of finding an appropriate means to finance investment in human capital.

From the perspective of the agency worker, the truly distinctive features of agency work compared to other forms of atypical employment, e.g. limited duration contracts,⁵ are the duality of employer responsibility and the frequent change of workplace. With most other employment contracts, the basis of exchange is that the worker receives wages from and surrenders authority to one and same employer. With agency work, the TWA is generally responsible for the payment of wages but the surrender of authority during the performance of the work is primarily to the user firm. The other distinctive feature of agency work is that workers will typically change their place of work very frequently. This report thus focuses particularly on the consequences for the worker of these two aspects of agency work, notably in Chapter 6, which deals with working conditions.

Trying to trace the impact on working conditions of the form of employment contract is far from being a simple statistical exercise and requires both sound statistical sources and sophisticated

⁴ This has been an issue in the UK, where, according to the national report, the basic number of agency workers has been 'the subject of dispute for many years'.

⁵ See Appendix 4 for a definition of the terminology used in this report for various types of employment contracts.

methodologies.⁶ Given the paucity of statistical sources, the methodological strategy in Chapter 6 is as follows. One of the major potential problems of agency work is job insecurity. However, as opposed, for example, to work performed with a limited duration contract, TAW is not *by definition* associated with job insecurity and may be performed with an open-ended contract. As there is a considerable body of research on job security and working conditions from the Foundation and elsewhere, we should first examine the extent to which agency work is associated with job insecurity, and then utilise this research. The (limited) empirical evidence presented in the national reports suggests that agency work is probably even more likely to be associated with job insecurity than limited duration contracts; thus the negative impact identified in previous research should apply to agency work also.

The next stage is to focus on the specific features of agency work (already mentioned above) that can be expected to impact on working conditions. The lack of clarity as regards employer responsibility, together with the high turnover of assignments and continual change of workplace, may have negative consequences on various aspects of working conditions, particularly health and safety. The limited firm evidence that exists generally (but not always) shows that agency workers experience poorer health and safety conditions. A further issue taken up in this chapter is the possibility that agency work may play a role in the erosion of social standards. While the focus here is largely on agency workers, it should be underlined that the welfare consequences of agency work are not confined to such workers alone. A key issue in the failed negotiations in the European social dialogue was equal treatment of agency workers and directly employed workers in the user firm. The centrality of this issue for the trade unions may be partly based on concern for agency workers. However, concerns that the poorer pay and working conditions of agency workers could also undermine the position of directly employed workers must have been at least as important a consideration.

Chapter 7 is concerned with the role that temporary agency work may play in integrating workers into the labour market. It has been argued that agency work may provide the worker with opportunities for job matching and the acquisition of a broad range of work experience, which may be conducive to fuller labour market integration. This can occur not just in the context of commercial agency work: a striking finding in several of the national reports was the extent to which temporary work agencies are used as an instrument of active labour market policy. This includes both profit-making and non profit-making agencies. Unfortunately, proper labour market policy evaluations of temporary work agencies have yet to be made.

The final chapter of the report draws conclusions and provides some general policy recommendations.

There are numerous issues that should be addressed in examining temporary agency work, and this report has by no means been able to deal with all of them. Perhaps the most glaring omissions are social security issues. This is particularly relevant when viewing possible legislation, as these issues cannot be addressed by the social partners alone.

⁶ To establish a statistical correlation is of course a much simpler but much less informative exercise.

The legal matters taken up in this chapter are based on CIETT (1998), OECD (1999), ETUI (2000), CIETT (2000), the national reports⁷ and other sources. However, this legal overview should not be seen as a full treatment of this complex issue. The focus will be on restrictions on the temporary work agency business itself (for example, as regards barriers to entry); the nature of the contractual relationship (if any) for the temporary agency worker; the restrictions on using TAW in user firms; and the concept of equal treatment. As the new (1999) Dutch model of regulation is innovative and has attracted much international interest, the Netherlands is looked at in greater detail at the end of this chapter.

Regulation of the temporary agency business is summarised in Table 1 and the regulation of assignments in Table 2. Typologies of regulation are presented at the end of the next chapter on collective bargaining. This could be viewed as a summary of statutory and collective bargaining rules in the Member States. Greece is not mentioned at all in this chapter, because the sector in that country is without any regulation whatsoever. There is no reference to TAW in Greek law; it is neither permitted nor explicitly prohibited, and in legal terms it does not exist. However, since 1999, private job counselling agencies are permitted.

The statutory regulation of temporary work agencies

The law in Denmark (1990), Sweden (1993), Finland⁸ (1993), the UK (1995)⁹ and the Netherlands (1998) does not lay down any special requirements for the establishment of a temporary work agency, although in the UK and the Netherlands, there are special procedures for monitoring the industry. All other countries have specific regulation. Among the most important features of the legal regulations are: conditions for setting up in business, proof of financial solidity or financial guarantees, duration of licence, monitoring procedures and the involvement of the social partners in the authorisation or monitoring. Table 1 provides a summary.

Austria: The essential criteria for obtaining a TWA permit are a previous record of general good employer practice, in particular as regards the law on the provision of temporary labour. During the application process, the relevant social partners are provided an opportunity to give an opinion to the permit-granting authority, which is either the provincial or national government. The permit may contain restrictions as regards the proportion of temporary agency workers and the maximum duration of the assignment in user firms.

Belgium: In each of the three regions, a committee with considerable representation of the social partners may grant recognition to a temporary work agency. Recognition may be for a period of limited duration (with possible renewal) or may be permanent.

France: Authorisation may be granted by the regional Labour Inspectorate. The agency is required to provide a financial guarantee, which must be renewed annually, to ensure payment to workers in case of insolvency. The TWA must provide monthly information on user firms and TWA workers, and quarterly information on social security contributions.

Germany: The Federal Employment Office (FEO) awards licences and monitors the activities of TWAs. Applications may be refused if there is a previous record of non-observance of the

⁷ The legal regulation of TAW was not included in the terms of reference for the national reports, but some do provide a detailed presentation of the legal issues.

⁸ The agency must, however, declare in writing to the Labour Inspectorate that it is hiring out labour. (ETUI, 2000).

⁹ In the UK, however, this is currently under review.

Temporary Employment Act or other breaches of employment and social security law. Most licences are temporary but may be renewed. The FEO has considerable monitoring powers and the agency must provide bi-annual reports providing information on employees, assignments and user firms. A guarantee fund exists to provide payment of wages in case of bankruptcy.

Ireland: Licences may be issued by the Ministry of Labour and may be renewed annually. The grounds for obtaining a licence refer mainly to health and safety issues and there are no requirements as regards financial guarantees. The agency is required to keep records of its activities, but there is no obligation to report regularly to the authorities.

Italy: Upon proof of previous adherence to labour and company law, the Ministry of Labour may issue a licence, which may become of indefinite duration after two years. Financial guarantees must be provided. Reporting to the authorities is limited and is confined to the sending of a copy of each commercial contract to the Labour Inspectorate.

Luxembourg: Authorisation may be obtained from the Ministry of Labour and requires the provision of financial guarantees. As regards duration, the initial three-year authorisation may become indefinite after that period. The law further requires that the agency provide monthly information on employees, user firms, pay and working days to the Ministry of Labour.

Portugal: Authorisation is required by the Ministry of Employment & Social Security and is subject to the employer having previously respected the labour and social security law. Financial guarantees must be provided along with proof of no previous record of bankruptcy. Licences are issued for a limited period. The TWA must bi-annually present lists of hired-out workers to the Institute of Employment & Professional Training

Spain: Authorisation must be obtained from the regional or national government. Financial guarantees must be provided and if necessary, upgraded annually. Licences are initially awarded for a year. After three years the licence may become one of unlimited duration. The agency must provide the authorities with monthly information on the number of contracts and the motivation behind them. Any changes in the firm's activities and management must also be reported.

The UK: The enforcement of the Employment Agency Act and other regulations is the responsibility of the Employment Agency Standards Office (EASO) of the Department of Trade & Industry. The EASO has the right to inspect premises and records of agencies to ensure that they comply with the standards set by the regulation and to investigate complaints. It has the power to bar operators from running agency services in case of gross misconduct.

As already mentioned, there is little significant special regulation of temporary work agencies in Denmark, Sweden, Finland and the Netherlands, and it is apparent from the above that the regulations are not strict in the UK and Ireland. In Italy, Spain, Belgium, France, Germany, Austria and Luxembourg, the TWA is forbidden to engage in other activities of a similar nature, such as recruitment, selection and sub-contracting.

Various dimensions of the regulation of TWAs are summarised below.

Table 1 The regulation of temporary work agencies

Country	Authorisation	Financial guarantees	Social partner involvement	Reporting obligations	Limitations on scope of activities
Austria	Yes		Yes	Yes	Yes
Belgium	Yes		Yes		Yes
Denmark					
France	Yes	Yes		Yes	Yes
Finland					
Germany	Yes		Yes ¹⁰	Yes	Yes
Greece					
Ireland	Yes				
Italy	Yes	Yes			Yes
Luxembourg	Yes	Yes		Yes	Yes
Netherlands					
Portugal	Yes	Yes		Yes	
Spain	Yes	Yes		Yes	Yes
Sweden					
UK					

Note: No regulation of temporary agency work exists in Greek law

The employment status of the temporary agency worker

As mentioned in the introduction, the basic definition of temporary agency work used in this report is one whereby the temporary agency worker is employed by the temporary work agency, and is then hired out to perform work assignments at the user firm by means of a commercial contract. This applies rather well to most of the EU Member States. The employment contract is with the agency. However, in the UK this may not be the case, while in Ireland, for some important matters, the user firm is considered to be the employer. The following provides some additional information on the employment status of the agency worker in each Member State. However, most of the important regulation concerns the *assignment*; this is taken up in the next section.

Austria: The agency is the employer and the employee has an employment contract. In order to protect the employee, the content of the employment contract may not seriously disadvantage the temporary agency worker as regards, for example, working time, or the opportunity to take up direct employment at the user firm after the assignment and earlier than previously agreed upon termination of the assignment.

Belgium: The agency is the employer and the employee has an employment contract. It is explicitly forbidden for agencies to play an intermediary role for the self-employed. Trade unions have always refused any possibility of negotiating open-ended contracts between TWA operators and workers. Since August 2000, open-ended contracts may be made for various marginalised groups in the labour market, such as the long-term unemployed and welfare recipients.

Denmark: The agency is the employer and the employee has an employment contract. There is very little specific legislation. Ethical rules unilaterally laid down by the TWA sectoral organisation may play a certain regulatory role.

France: The agency is the employer and the employee has an employment contract.

¹⁰ To the extent that the Federal Employment Office is a tripartite organisation.

Germany: The agency is the employer and the employee has an employment contract. The duration of the contract must, however, be determined independently from the duration of the assignment, i.e. the so-called synchronisation ban. If the contract is of unlimited duration, the TWA must provide an income guarantee for those periods when no assignments are available.

Ireland: According to ETUI (2000), there is no consistent legislative code dealing with temporary work. For example, while no contract of employment exists between the user and the temporary agency worker, 'the user assumes all the rights and obligations of an ordinary employer.' The national report cites treatment of agency workers under various labour laws, and concludes that in general, 'the person who pays the wages is considered to be the employer of the agency worker.' In this respect, one cannot *a priori* determine whether the user firm or the agency is the employer. Moreover, the Unfair Dismissal (Amendment) Act states that agency workers have some protection when dismissed, in that they may take an unfair dismissal case against the user firm and not against the agency. It would thus appear that what is termed agency work in Ireland rather differs from all other EU countries, as the obligations of the user firm appear to be relatively extensive.

Italy: The agency is the employer and the employee has an employment contract which may be of limited or unlimited duration. If the contract is of unlimited duration, the TWA must provide an income guarantee for those periods when no assignments are available. The agency is responsible for social and health insurance payments.

Luxembourg: The agency is the employer and the employee has an employment contract. The written contract must include all the information contained in the commercial contract, including the expiry date. The contract is thus necessarily of limited duration.

Finland: The agency is the employer and the employee has an employment contract.

Portugal: The contract is a labour contract between the TWA and the worker. It must be in writing and must contain detailed information on pay and working conditions. If the stipulations are not observed, the contract becomes open-ended between the user and the temporary agency worker.

Spain: The agency is the employer and the employee has an employment contract. The contract may be of either limited or unlimited duration.

Sweden: The agency is the employer and the employee has an employment contract. The contract may be of either limited or unlimited duration.

UK: The employment status is rather complex and often not clear. The worker may be employed at the agency or the user firm, or may even be self-employed. To some extent the trend in UK labour law to award rights to 'workers' rather than 'employees' means that confusion over employment status is now perhaps less problematic.¹¹ Moreover, as pointed out in Cam, Purcell and Tailby (2002), the Employment Relations Act, 1999, has conferred powers on the Secretary of State to extend other existing statutory employment rights, as well as to amend the regulations that apply to the private recruitment industry. One of the amendments proposed subsequently has been that temporary staff hire should be conducted on an employment business basis, i.e. the worker has a contract with the employment business. The effect will be to bring agency workers more within mainstream legislative protection and perhaps to clarify the role of TWAs as employers.

¹¹ Thus, UK agency workers are covered by the national Minimum Wage Act, and by several elements of UK implementation of the EU Working Time Directive, in particular the entitlement to 20 days paid annual leave.

The Netherlands: It was only with the most recent legislation that it became clear in labour law that the agency worker has an employment contract with the agency. However, within the first 26 weeks, the employer is free to terminate the employment relationship upon the completion of the assignment.¹² Practically the entire sector is covered by collective agreements that regulate contractual forms in some detail. (See below for a more detailed presentation of the Dutch model of regulation.)

The regulation of assignments

The circumstances under which a temporary agency worker may be assigned to a user firm may be considered under the following headings: objective reasons, economic sectors, duration of the assignment and information requirements with respect to both the worker and the social partners.

The regulation of assignments is summarised in Table 2. (A more detailed presentation can be found in Appendix 2.) For example, in Sweden, there is no law prohibiting the use of agency workers when workers of the user firm are on strike, although it may well be the case that in practice this would never happen, or even that a court could rule it to be illegal.

The Dutch model of regulation

Since 1999, the 'Flexicurity' and 'WAADI' Acts and the TAW sector's collective agreement have together created detailed regulation of agency work which is rather innovative and quite different from that pertaining in other Member States.¹³ In terms of, for example, the regulation of the assignment, as summarised in Table 2, it would appear that the sector is totally deregulated in terms of the objective reasons for the assignment, the duration, excluded sectors and so on. However, as will be seen below, temporary agency work *is* regulated – but in another fashion. Indeed the 1999 legislation was generally seen as a tightening of the regulation of employment contracts for temporary agency workers. An important feature of the new regulation is that employment rights and wages increase according to the time spent in the TAW sector, and after a given period, the worker must be offered an open-ended contract in the TWA.

However, it is important to underline that the matters pertaining to TAW were only part of a much larger package of legislation, which included a relaxation of the dismissal procedures for open-ended contracts, and changes in the regulation of limited duration contracts. Indeed, the whole package of labour legislation and collective agreements in the late 1990s was seen as the high point of a long process begun in 1982 by the government and social partners.¹⁴ This process has become known as the 'Polder' model.¹⁵

Contracts and phasing system

The new legislation incorporated temporary agency workers almost fully into the scope of the main body of labour law. Previously it was not clear whether such workers had an employment contract. Now, apart from an initial period, which, according to the major collective agreements, is 26 weeks, the worker definitely has an employment contract at the agency. The law also permitted the user firm to hire agency workers indefinitely, while it opened up the possibility for an open-ended contract at the agency. However, it was collective agreements, signed in 1996 by all the social

¹² For this and several other observations on Dutch labour law, I am grateful to Catelene Passchier, FNV, Department of Labour Law and Labour Relations.

¹³ Previously it was more easily situated in the framework of Table 2, with, for example, a limitation on the duration of the assignment and a prohibition on agency work in construction.

¹⁴ The institutional basis for the Polder Model was in fact established shortly after the Second World War, and included the bipartite Labour Foundation and the tripartite Social Economic Council.

¹⁵ A reference to the communal building of dykes against the threat of flooding.

Table 2 The regulation of assignments at the user firm.

Country	Reasons justifying assignment				Duration of assignment		Excluded sectors*	Requirement as regards information	
	<i>Objective reasons**</i>	<i>Following dismissals for economic reasons</i>	<i>To replace workers on strike</i>	<i>For dangerous work</i>	<i>Initial duration</i>	<i>Extension</i>		<i>To social partners in user firm</i>	<i>To temporary agency worker</i>
Austria			No					Information/consultation	Detailed
Belgium	Yes		No	No	6 months	Yes	Construction, graphical, textiles, public administration	Prior agreement	'labour contract'
Denmark									
France	Yes	No	No	No	18 months	Yes	Public administration	In some cases	'labour contract'
Finland								Information/consultation	
Germany	Yes	No	No		12 months	After 3-month waiting period	Construction	Information/consultation	
Greece									
Ireland									
Italy	Yes***	No		No	No			Information	Yes
Luxembourg	Yes***				12 months			Information	Detailed
Netherlands			No						Information
Portugal	Yes				12 months	Yes	Yes		
Spain	Yes	No	No	No			Public administration		Yes
Sweden								Information, consultation, right of veto	
UK			No						

* Most countries do not permit agency work for seamen

** Refers to the type of circumstances often stipulated in the regulation of limited duration contracts

*** 'Bridging' recruitment (to plug a personnel gap until the vacancy can be filled) excluded (CIETT, 2000)

Note: A blank cell implies no specific legislation.

partners, that not only provided the explicit detail of the regulation of these matters in the Netherlands, but also were a prerequisite for the legislation that came a few years later. This was followed by collective agreements on the 'phasing system', outlined below.

The phases

Phase 1: Months 1-6

'Employment at will'. The employment relationship ends with the assignment or with sickness. The worker is insured against unemployment and sickness. For the latter, this can amount to up to 90% of previous wages.

Note: It may be more correct to stipulate the duration of this phase in weeks (26). A week during which at least one hour of work is performed is counted. The weeks do not have to be consecutive. Collective agreements can and sometimes do prolong this initial period up to 52 weeks.

Phase 2: Months 6-12

This begins with an interview to ascertain training needs. Employees over the age of 20 begin to accumulate pension rights.

Phase 3: Months 12-18 (36)

Some employment security is introduced, at the least a fixed-term contract of three months (which may be renewed throughout Phase 3), and guaranteed pay (100%) if no work is available. In case of sickness, payments are continued at 100% until the limited duration contract expires, or, in the case of an open-ended contract, for a maximum of 52 weeks.

After 18 months at a single user enterprise or 36 months with various enterprises, the worker moves on to Phase 4.

Phase 4: Months 18 (36) onwards

Open-ended contract at the agency, and the usual dismissal procedures must therefore be observed. While the Flexibility & Security Act eased the usual dismissal procedure for employers, Dutch regulation is still rather strict from a northern European perspective.

If a temporary agency worker in Phase 1 does not work for the agency for a period of more than one year, phasing rights begin again at the start of Phase 1. From Phase 2 onwards, after a period of more than three months absent from the TWA, rights begin from the start of the phase.

There is an alternative system ('chain contracts') whereby if the employer offers three consecutive fixed-term contracts of three months, or a number of fixed-term contracts of an accumulated duration of 36 months, then the worker becomes employed on an open-ended contract, as in Phase 4. This is in accordance with the regulation of fixed-term contracts in the Netherlands.

In 1999 employment in Phases 1 and 2 was roughly five times greater than in phases 3 and 4. Of the total of 189,000 full-time jobs provided by TWAs in 1999, 156,000 were in either Phase 1 or 2; the remaining 33,000 were in Phase 3 or 4.

Wages

The WAADI Act established the principle of equal pay with comparable workers in the user firm. If the user firm registers their collective agreement with a bipartite body (*Stichting Melding Uitzendbranche*) then this will be the wage paid to the temporary agency worker. However, if no such registration takes place, then the wage is determined by collective agreements within the TWA sector. Pay levels are based on the average of 50 other collective agreements. This means that in practice, wages in the user and TWA firms will not necessarily be equal for the same work.

According to the ABU collective agreements, effective from January 2001, temporary agency workers are divided into two groups. Group 1 comprises those with a more marginal position in the labour market, for example, school-leavers, vacation workers, re-entrants to the labour market and long-term unemployed. Wages are lower in Group 1, but after a maximum period of a year, the worker is transferred to the higher paying Group 2. However, the exact division of agency workers into the two groups was an issue of major conflict in the most recent bargaining round.

We return to some basic principles of the Dutch and other models of regulation in Chapter 3.

Collective representation rights and collective bargaining

Collective bargaining for temporary agency work is still rather undeveloped in most Member States. There are a number of difficulties for agency workers and possibly also for agency firms as regards organising. Moreover, in many countries the sector is new, and trade unions have hesitated to make agreements with a business viewed with some suspicion. However, there are exceptions, most notably in the Netherlands and Sweden. Moreover, in newly deregulated countries like Italy and Spain, the pace of collective bargaining has speeded up considerably. Even in Germany, where the unions have previously been singularly reluctant to accept the phenomenon of agency work, agreements are now being made.

The Dutch model of regulation was presented in the previous chapter; here we devote most attention to the Swedish case, which has gone from practically no agreements in the mid-1990s to almost total collective agreement coverage. The chapter starts with a presentation of collective representation rights. It concludes with a description of the legal basis for the equal treatment of temporary agency workers and workers in the user firm, and typologies of regulation.

Collective representation rights

This is an important and rather problematic issue. The possible continual change of workplace and the dual employment relationship may make the effective provision of collective representation rights very difficult in practice. Moreover, the somewhat hostile attitude taken by some trade unions as regards agency work is hardly conducive to representation rights for agency workers at the user firm, while such rights are obviously problematic at the TWA, where work is not performed. The situation in the various Member States is outlined below.

Austria: A basic principle of the law is that the temporary worker must not be placed at a disadvantage in relation to comparable workers in the user firm in terms of pay and other working conditions. This principle extends to various 'voice' rights in works councils. In fact, the worker has rights in relation to both the agency and the user enterprise, including the right to vote and to be elected in works council elections in both the agency and the user firm. *Which* works council is competent depends upon the matter at hand. For example, it is the works council in the TWA that deals with protection against dismissal, while that in the user firm takes up issues related to the organisation of work. The works council of the user firm is entitled to be informed and consulted whenever workers from agencies are to be engaged.

Belgium: Union delegation rights are regulated by a collective agreement dating from 1981. However, as the agreement imposes stringent working time qualification rules (over 100 days over a twelve-month period), there have yet to be any temporary agency workers elected to union posts. Agency workers who require union assistance may contact either union representatives at the user firm or the relevant regional union official. The Belgian national report notes that at least until recently, union disapproval of TAW led to unsatisfactory representation of agency workers' interests and complaints.¹⁶ According to ETUI (2000), such workers can take part in trade union elections in the temporary agency, and they are also included among the user company's workforce for the purpose of calculating thresholds relating to worker representation. In addition to these channels, the 'Commission of Good Services' may deal with individual and collective complaints between the worker and the agency.

¹⁶ Despite this apparently poor representation, the national report notes that trade union membership is high.

Denmark: There is no statute of the law that governs worker representation in Denmark. Representation issues are regulated by collective agreement. As temporary agency workers are generally not covered by the collective agreement at the user firm, they are thus not entitled to participate in elections of shop stewards and representatives on the 'Cupertino Committee' at the user enterprise. For the same reason, they are not counted among the workers in the user enterprise when calculating the number thresholds either for the establishment of workers' representative bodies or for the election of shop stewards (five employees). While this description suggests that agency workers' representation is not very satisfactory, some collective agreements have taken account of their special circumstances by calculating seniority in hours.

France: In accordance with French labour law, the agency is required to set up various representation bodies, i.e. works council, staff committee and health and safety committees. In calculating company size in this context, agency workers are included provided that they have been employed for more than three months in a reference period of 12 months. They may stand for election to these bodies after being employed for a minimum of six months. They may vote if they have an assignment for at least three months or have worked a minimum of 507 hours over a period of three months within the 12 months preceding the elections. The 'Commission paritaire professionnelle nationale du travail temporaire' (CPPN-TT), was set up in 1982 to ensure trade union rights. It has an advisory capacity as regards the implementation and interpretation of legislation and collective agreements, and adopts a conciliatory role in individual and collective disputes. Representation rights are primarily at the TWA. While temporary agency workers do not appoint representatives at the user firm, they are included in the calculation of thresholds. Moreover, according to ETUI (2000), the Labour Code authorises temporary workers to submit individual or collective claims regarding their salary and working conditions to the workers' representative body in the user enterprise.

Germany: Temporary workers can take part in elections to workers representative bodies in the agency. However, according to ETUI (2000), it is very rare that works councils are established at the agency. In the user firm, the agency worker does not have the right to vote or to stand as a candidate for the works council. Neither are they included in the calculation of thresholds for workers' representative bodies in the user firm. However, they may consult the works council in the user enterprise.

Ireland: Temporary workers are eligible to join Irish trade unions, and most unions accord the same voting rights to temporary as to permanent workers. However, there are rather strict seniority rules as regards both voting (one year) and representation (three years). These seniority thresholds imply that in practice, temporary workers are often excluded from these rights.

Italy: Temporary workers enjoy all statutory trade union rights.

Luxembourg: Temporary workers are included for the purposes of calculating company size thresholds in the agency in connection with worker representation, on condition that they have been employed for more than 10 months over a 12-month period. In the user enterprise, temporary workers are entitled neither to vote or to be elected in elections. However, they are entitled to consult those bodies when necessary. Temporary workers also have the right of access to their personal files.

Portugal: There is very limited worker representation in Portugal, and collective bargaining has played almost no role in this matter. Moreover, temporary agency workers have no right to vote in works council elections.

Spain: In the agency, all temporary workers are entitled to be represented, informed and consulted by the works council or the health and safety committee. In the user enterprise, they are entitled to submit complaints about their working conditions to the works council.

Sweden: All collective rights apply to the agency. No rights are awarded in the user firm. Collective agreements have attempted to ease the practical difficulties of trade union work at the agency and user firm.

The UK: Temporary agency workers formally enjoy the same statutory trade union rights as other workers, including the right to be in a union and immediate protection from dismissal for trade union activities (although this may be hard to enforce). Rights to consultation and participation at the host workplace depend to a large extent on the level of unionisation and the policy of the local union. Attitudes towards the organisation and representation of agency workers are likely to improve as a result of recently introduced rights to trade union recognition. Temporary agency workers are formally included in the calculation of relevant workforce thresholds.

The Netherlands: The sector-wide collective agreement for 1999-2003 allows the temporary agency worker to vote in elections after 26 weeks employment at the agency, and after one year, they may stand for election. This is the general rule in the Netherlands. Rights are also awarded to unions at the agency, for example, the right to have a room made available for meetings of the workers' representative body. Furthermore, recent works councils legislation permits the temporary worker, after two years of assignment at a particular user enterprise, to be a representative on the works council.

Collective bargaining

Given that agency workers (and perhaps also firms) are difficult to organise; the sector is new in many countries; and there is potential for rivalry between the agency and the workers at the user firm, one might expect that collective bargaining would be relatively undeveloped. Generally, this appears to be the case. However, there are exceptions, the most striking being in Sweden, where, despite the fact that agency work was only recently allowed in law, practically the entire sector is now covered by collective agreements that cover a wide range of issues and provide an appreciable level of income security.¹⁷ The other example of developed collective bargaining is in the Netherlands, where, as already noted, the interaction of legal and collective agreements is of particular interest. This was taken up in Chapter 2. We devote much of this section to describing the Swedish position.

Compared to all other Member States, the development of collective bargaining in the temporary work agency sector in Sweden is truly remarkable. Despite the fact that prior to the deregulation of the 1990s this activity could best be characterised as illegal, and despite agency work being among the most difficult of areas to organise, the vast majority of temporary agency workers are now covered by wide-ranging collective agreements, with an appreciable degree of income security.

¹⁷ The broad coverage has been attained directly, as extension of collective agreements does not occur in Sweden.

Before deregulation, the (public) opinions of the social partners were very clear. While the Employers Association (SAF) continually called for total deregulation, almost every step in that direction was opposed by the trade unions, at least publicly. However, the issue was never very controversial and did not significantly enter the public debate. Since deregulation, employers have continued to call for further deregulation, including the removal of the prohibition on the agency taking a fee from the job seeker. The trade unions, publicly at least, appear to have shifted their position. In the political debate they have focused mainly on the issue of authorisation, although as before, this does not appear to be very important. Since deregulation the unions' efforts have been devoted mainly to obtaining acceptable collective agreements. It is difficult to discern strategy purely on the basis of public statements, but it is conceivable that the unions were not as strongly opposed to deregulation as appeared from their initial public stance. Vocal opposition may only be part of a negotiation strategy. Indeed, it is notable that in the labour law debate at the start of the 1990s, many other issues under review appeared to be of more importance to the unions. One was the abolition of the trade union right of veto when outside workers are brought into the workplace. One of the most important grounds for this veto was that there was reason to believe that bringing in outside labour would undermine the collective agreement. The veto has been retained.

The unions' role and success in this case was obviously related to the general strength of unions in the country as a whole, in particular their success in organising all forms of flexible labour. While one could argue that the vulnerable position of workers in this category would suggest that they would have most to gain from becoming union members, this has not been the result in other countries.¹⁸ Indeed, the international experience has been that the increase in atypical forms of employment has coincided with a *fall* in union membership. It is difficult to point to any single factor that explains the divergent Swedish experience. In broad terms one could speculate that it is related to the historically well-documented phenomenon of the Swedish trade unions' active participation in structural change and the modernisation of work.

Unions do not make collective agreements alone, however. From the point of view of the employers, a major issue after deregulation was to improve the perception of the sector in order to attract workers, sell their services and enhance their image in society at large. In Sweden, as in most other countries, the employers have devoted considerable effort to this image, and the sectoral organisation, SPUR, has introduced an ethical code. However, probably the best way to gain acceptance for agency work was to come to terms with the unions by means of collective agreements. The conflict between large employers and smaller, possibly less reputable ones which was noted in several national reports has existed in Sweden also, but (as will be seen from Table 8 in Chapter 5) the Swedish TWA business is the most concentrated in the EU, with the top five companies accounting for over 80% of turnover. This reflects an often neglected fact of Swedish industrial relations: it is not only the unions that are centralised, but also, due to a concentrated industrial structure, the employers. Thus, from the employer side, both of these factors – the need for a collective agreement in order to gain legitimacy and the ability to mobilise – were important.

On the question of income security, i.e. the provision of a guaranteed monthly wage, which has been the major issue in all collective bargaining in the TWA sector, the position taken by the Labour Market Board, which administers unemployment insurance, has been very important. From 1995 it became clear that unemployment benefit would not be paid out to employees of temporary work agencies while they were not on an assignment. This made it practically impossible

¹⁸ One should not underestimate the fact that the worker *may* opt to join an unemployment insurance scheme which is partly administered by the trade union. In this case the worker must join the union.

for the employee to obtain a satisfactory income from periodical agency-derived wages and benefit payments. Thus, the agency could not shift the costs of flexibility to the state, so in order to attract labour it was the TWA that had to guarantee a minimum level of income to the workers. It is perhaps no coincidence that the guaranteed income for agency workers is roughly 80% of a full-time monthly wage: the ratio in unemployment benefit is also 80%.

Most agency workers are white-collar workers in the private sector: office 'temps' and so on. This sector existed even prior to the deregulation of the 1990s, although with dubious legal status. After deregulation, it was among the first to conclude a collective agreement, and agreements in this sector have tended to set the agenda for other collective bargaining areas. The most recent agreement, which came into force in July 2000, was between the 'Service Companies Employers' Federation' (*Tjänsteföretagens arbetsgivare förbund*) and the two major unions, HTF¹⁹ and CF.²⁰

This agreement covers 15,000 employees in 120 companies, and is thus by far the most important in the TWA sector.²¹ It guarantees employees an income corresponding to 125 hours a month; after 10 months in the company, this guaranteed basic wage rises to the equivalent of 142 hours per month. These two guaranteed levels have been interpreted to correspond to 75% and 85% of the full-time monthly wage.²² As regards employment contracts, under this collective agreement the main principle is that the contract should be open-ended, although under certain circumstances limited duration contracts are permitted. It also addresses some social security issues, such as sick pay.

There are other collective agreements in this bargaining area. Perhaps the one most favourable to employees was that reached between the HTF and CF unions at the company, *JobAgent*. This agreement took effect in March 2000. A guaranteed full-time monthly wage is offered. The agreement also makes a commitment to training during paid working time. The firm claims to have 200 employees, mainly office and administrative staff, and to be the only fully Internet-based TWA in Sweden. It is not affiliated to the main employers' federation (SAF).

Since September 2000, in principle, one agreement covers the entire private blue-collar TWA sector. This agreement was signed by 18 unions affiliated to the main blue-collar trade union organisation, the LO. On the employee side, the negotiations were coordinated centrally, but each union signed its own more or less identical collective agreement with the employer organisation (*Tjänsteföretagens arbetsgivareförbund*). The main principle is that all TWA employees shall have the same wages and working conditions as those in the user firm. The main issue, of course, was the lack of income security due to the uncertain hours of placement in a client company. According to the parties, the guaranteed monthly wage is 85% of that received during the previous quarter. In October 2002, the guaranteed wage is to be increased to 90% for those who have been employed for more than six months. However, this does not apply to labour hired out for a period of less than 10 days. For these persons the guaranteed wage is based on the average wage at the agency in the relevant job category during the previous quarter. The LO's initial negotiating position was for a 100% guaranteed wage, and this remains its aim. As regards contract, the main innovation was that

19 The 'Salaried Employees' Union'. It is mainly for salaried personnel working in the private sector, primarily in commerce, transport and in service industries. HTF has over 155,000 members.

20 The Swedish Association of Graduate Engineers.

21 According to HTF, the agreement covers 80% of employees in the collective bargaining area.

22 Earlier agreements in this sector gave lower guaranteed wages. The first collective agreement gave 50%; one concluded in 1998 gave 75%.

a contract of limited duration may be for up to six months, without any objective reason.²³ If such a contract is not specified at the outset, then the contract is of unlimited duration.

The issue of trade union representation is treated rather unusually in this bargaining area. The process is as follows. The TWA company examines in which collective bargaining area most of its activities are concentrated. It then identifies the dominant union, which becomes the negotiating party at national level. The national union then examines each of the TWA company's local offices to establish which is the dominant union locally. The local dominant union then becomes the TWA's negotiating party at local level.

The two other Scandinavian Member States, Denmark and Finland, share some elements of the Swedish model of industrial relations. Collective bargaining is most developed in Denmark. There are several employer associations that participate in collective bargaining on agency work. 'Danish Commerce and Services' (*Dansk Handel og Service*) organises 35% of all agencies, corresponding to 85% of market share. It has collective agreements specifically concerning TAW with three different trade unions: the General Workers' Union in Denmark (SiD), the Danish Trade Union of Public Employees (FOA) and the Danish Nurses Organisation (DSR).

Danish Commerce and Services has also made traditional collective agreements with a number of trade unions. The TWAs can use these general agreements, but they are often not applicable in the specific situations. However, in some of these general collective agreements, protocols are added with specific focus on TAW. Examples include agreements with the national Union of Commercial and Clerical Employees in Denmark (HK), the Danish Association of Professional Technicians (TL) and the Danish Food and Allied Workers' Union (NNF).

In addition to these national collective agreements, some TWAs, which are members of Danish Commerce and Services, have made their own agreements at corporate level with trade unions, e.g. the Danish Food and Allied Workers' Union (NNF) and the General Workers' Union in Denmark (SiD). This has been the approach of the other major employers' association, the Confederation of Danish Industries (*Dansk Industri*), which also adds a protocol on TAW to its agreement with the Central Organisation of Industrial Employees in Denmark. This is also the case with the Federation of Employers for Trade, Transportation and Services (AHTS) in their general collective agreement with the General Workers' Union in Denmark (SiD).

As is the case in Sweden, these employer organisations account for a large percentage (85% in Denmark) of TWA sector turnover. The Danish national report concludes, however, that there is limited focus on collective bargaining between unions and TWAs, the sector being still quite small in Denmark, and that neither the trade unions nor the employers' organisations have experienced serious problems in the field.

In **Austria**, no agreements have been struck with the Austrian Association of Temporary Work Agencies (*Dachverband der Personalbereitsteller*). Attempts have been made, in particular in 1999, with the Austrian Metal and Textile Workers' Union. As in the Swedish case, the main issue for the trade unions has been income during the periods when the worker is not hired out. Another major issue of dispute is how the phrase 'customary salary at a given place' should be interpreted in the law concerning equal treatment as regards wages.

²³ With the permission of the local trade union, it may be of up to 12 months duration.

In **Belgium**, the three representative union organisations are FGTB (General Federation of Work in Belgium), CSC (Confederation of Christian Trade Unions) and the CGSLB (General Confederation of Free Trade Unions in Belgium). Bargaining occurs at many levels. There are intersectoral, sectoral and company agreements for all the workers concerned, i.e. temporary agency workers and the directly employed. For example, in the private intersectoral agreement 1999-2000, the standard maximum wage increase of 5.9% was applied even to agency workers. In the TAW sector, many wage and social issues are negotiated, as well as agreements on relaxation of the rules concerning the objective reasons for using temporary workers. Many wage and social issues are negotiated in the TAW sector's joint committee.

In **France**, the regulation of temporary agency work is largely achieved through legislation, as is the case with many other areas of labour. However, it should be pointed out that the law is based on rules that had already been negotiated by employers and unions in legal form. For example, most of the provisions of the first French law in 1972 were based directly on previous provisions collectively agreed at *Manpower France*. Again, in 1990, the government deployed the extension instrument to lend legal weight to a national cross-sector agreement dealing with all aspects of temporary employment, and thus broadened its field of application. Since 1990 many collective agreements have been signed within the TAW industry regarding welfare protection, vocational training, occupational medicine, union rights and staff representation.

The establishment of the Temporary Work Social Action Fund (*Fonds d'Action Sociale du Travail Temporaire*, or FAS-TT), and especially the Temporary Work Training Insurance Fund (*Fonds d'Assurance Formation du Travail Temporaire*, or FAF-TT) has provided for contributions to be paid by temporary employment agencies. These contributions are used by the FAS-TT to give access to housing and consumer credit insurance with mutual societies; study grants; and children's holidays. The FAF-TT, on the other hand, uses its funds to finance any training undertaken as part of sector-level agreements (training programmes, individual study leave and periods of alternating work experience and training courses for young people).

Employers in the sector are all members of one recently formed association; the Union of Temporary Work Agencies (*Syndicat des Entreprises de Travail Temporaire*, or SETT), which has 400 member agencies, accounting for 85% of the sector's business. The unions continually call for a ban on temporary agency work. However, they have also played a substantial role in the adoption of the industry's standards. Most of the large unions are organised into sector-level federations, and have been signatories to the main sector-level agreements. The degree of social protection afforded by these agreements deals with almost every aspect of industrial relations and temporary agency work. However, a number of small companies (which account for only a limited proportion of the sector's activity and which have very low levels of unionisation) are not obliged to comply with the collectively agreed rules and provisions.

In those companies covered by the agreements, social security provision is such that employers' associations claim that temporary agency work enjoys economic and social legitimacy. In their view, the phenomenon of such work is a legitimate response to a genuine need, on the part of both the client companies and the workers themselves. They also stress that there is now a clientèle of virtually professional temporary agency workers, who appreciate the advantages of agency work. The unions, however, are uneasy about TAW and are caught between the image of temporary

agency work on the margins of unemployment in the absence of other options, on the one hand, and the temporary agency worker's sought-after and savoured freedom, with the lure of higher pay due to the end-of-assignment bonus, on the other. The unions vacillated for a long time between total opposition to temporary agency work, in the name of defending permanent workers already employed, and limiting the degree to which it can develop by establishing safeguards.

In **Germany**, strong trade union opposition to agency work has meant that there have been few collective agreements. Recently, however, activity has been stepped up and some have been reached. These agreements have been made mainly at company level. Some important examples have been the VW agreement which set agency wages at 10% below VW employees. The company, *Adecco*, struck an agreement in conjunction with the 2000 EXPO in Hanover, and in April 2000, *Randstad* struck an agreement which dealt with regular working hours, issues of pay and sickness and works council representation.

In **Italy**, most firms are members of the sector's employer organisation, *Confinterim*, and a minority are in the general private sector employer organisation, *Confindustria*. The unions are the three main organisations, *CGIL*, *CISL* and *UIL*, all of which have special divisions for agency workers. Bargaining occurs at sector level and sometimes regionally. The usual procedure is to reach a framework agreement for the entire TWA industry, then to arrive at implementing agreements in various sectors. The major issues are the relaxation of objective reasons and quotas; training; job classifications (and thus wages); and union rights. Three major agreements have accompanied the 1997 law and several have been implemented by industry.

In **Spain**, there are four employer organisations, reflecting the different interests of various employer groups, mainly large and small employers. The main issues of negotiation are working hours, wages and collective insurance. There have been three major national agreements and one in Catalonia since deregulation in 1995. The first national agreement was concerned with procedural issues. The second had more substance and covered a wide range of topics, including the lowering of number thresholds for the election of union representatives. The third agreement, signed in 1999, covered 82% of TWA employees and fixed annual hours at 1,785 for the year 2000 for those workers employed within the agency (structural workers). In addition, there are numerous agreements in user sectors which limit the use of temporary agency workers and wage equalisation.

In the **Irish** national report, there is reference only to some high level discussions. In **Portugal**, collective bargaining in general plays a minor role, and as regards agency work it is insignificant. In **Luxembourg**, an agreement made in 1998 has lapsed and is yet to be renegotiated. The agreement was signed by the main organisations and was largely concerned with contractual issues.

In the **UK**, there are no major national agreements on agency work, and indeed there is no collective bargaining organisation on the employers' side. There is one exception: PACT, the employers' association in the broadcasting and film industry, has concluded framework agreements (including issues like minimum hourly rates and conditions) with BECTU, the relevant union for TAW and freelance workers in the industry since the early 1970s. Several of the big international agencies have company agreements. However, these constitute a relatively small share of agency work in the UK (see Chapter 5, Table 8). Since 1983, *Manpower* has had national

agreements, for example with the Transport and General Workers' Union, which stipulates the right to equal pay with corresponding workers at the user firm, and *Adecco* has several national agreements. The AEEU, a union representing skilled technical workers, has agreements with 10 of the 40 key agencies in the electrical and mechanical engineering sector, which, interestingly, establishes the right of the worker to choose the contractual form, which may even be self-employment. According to the Labour Force Survey in 1999, 8% of all agency workers are union members, compared to 28% for the labour force as a whole.

Strategies of the parties

The national reports testify to very similar strategies adopted by employers in most Member States, with concerted efforts on the part of many employer organisations to improve the public image of the temporary agency business. These efforts have been particularly prominent in Member States that have recently legalised agency work. As regards labour market regulation, the employers at the larger firms, often multinationals, claim to be in favour of some regulation to improve the public image and to drive out less reputable agencies. There appears to be some conflict of interest between big and small operators. During the 1990s ownership has become more concentrated in most Member States. This has largely been achieved through mergers and take-overs. Parallel with this concentration, one can also observe a trend towards specialisation into certain niche segments of the market. The national reports also claim to notice a diversification of activities into related fields, such as recruitment.

Public perception of agency work has generally become more positive, although in some of the southern European countries, public suspicion remains.²⁴

The most important difference in strategies *appears* to be among the unions in the various Member States. In some countries it appears that unions are opposed in principle to the very concept of agency work, while in others it is seen in a much more positive light. However, it is not always clear what the unions' public pronouncements actually represent, and to some degree at least, they may simply reflect different types of collective bargaining rhetoric in the various Member States. In France, there are still frequent calls for the prohibition of agency work while unions continue to actively participate in collective bargaining. In northern Europe, the unions in Belgium and Germany have been most vocal in their opposition to agency work. In Germany, the previous extreme reluctance of trade unions to bargain suggests that public declarations of opposition were *not* just rhetoric or elements of negotiating strategy. In recent years the position of the unions in both Belgium and Germany appears to have shifted somewhat. Among the unions most positively disposed to agency work are those in the UK²⁵ and Sweden.

The principle of equal treatment

In the failed negotiations on agency work in the European social dialogue, the principle of equal treatment with comparable workers in the user firm was a key issue for the trade unions. It should be obvious that this interpretation of equal treatment is very important for the unions, for if it is not guaranteed, agency work has the potential to erode collective agreements and other employment standards.²⁶ However, it is also obvious that there are considerable difficulties in

²⁴ This also appears to be the case in Germany.

²⁵ The TUC general secretary has stated, 'Many staff are directly employed by reputable agencies and are happy with the flexibility that agency work gives them. But a significant number are exploited. Just as there are good and bad bosses employing permanent staff, there are good and bad agencies.'

²⁶ The employers called for equal treatment for a comparable worker in the agency.

ascertaining what equal treatment should entail for agency workers, and whether, in fact, it is appropriate. All forms of remuneration related to being employed in a company, such as wages based on seniority, social insurance and other fringe benefits, represent a considerable element of total remuneration in many enterprises, as well as being an integral part of personnel policy. Problems arising in this context are further developed in Chapter 6. In this section we briefly examine the regulatory issue.

In **Austria**, according to the *Arbeitskräfteüberlassungsgesetz* or Labour Placement Act of 1988, the provision of temporary labour is understood to mean any activity which places labour at the disposal of third persons for the performance of work. The declared purpose of the Act on the Provision of Temporary Labour is to protect the temporary workers placed at the disposal of the user enterprise (in particular as regards the employment contract, worker protection and statutory social insurance provision); to avoid adverse developments in the employment market; and to guarantee that the use of temporary workers does not jeopardise the jobs of workers in the user enterprise or result in any disadvantage to them in terms of pay and working conditions.

In **Belgium**, in principle, the law calls for equal treatment with workers at the user firm as regards salary, working hours, protection against accidents at work and social security benefits. As pay for direct employees may be above the collective agreement, this may in fact entail lower pay.

In the **Netherlands**, there is a basic principle of equal treatment in that the agency should pay the worker equal wages to those earned by workers in the user enterprise. However, this rule does not apply if either the collective agreement for workers of temporary work agencies provides to the contrary, or if the collective agreement applicable to the user enterprise requires remuneration of agency workers to conform with that collective agreement. These two rules thus allow the social partners to depart from the basic principle of equal treatment.

In **Finland** also, according to the Employment Contracts Act (June 2001), the agency is obliged to apply the collective agreement at the user enterprise to temporary agency workers on assignment unless there is a collective agreement specifically covering agency work. In principle this is the same as in the Netherlands, but TWA collective agreement coverage is appreciably lower in Finland.

In **Spain**, equal treatment is in general guaranteed by the constitution and by several laws pertaining to agency staff and temporary workers in relation to permanent workers in the user enterprise. This general principle was strengthened by legislation in 1999 which stipulated that pay for agency workers should be the same as that of comparable workers in the user firm. However, other salary complements regulated on an *ad hoc* basis, such as profit sharing or extra-salary payments, are not included.

In both **Sweden** and **Denmark**, there is no statutory regulation on equal treatment. However, most of the agreements in Sweden and some in Denmark stipulate equal treatment. There are quite extensive provisions for equal treatment in **France**. Equal treatment as regards wages extends to paid holidays, bad weather premiums and in some cases profit sharing. This would appear to be the case in **Portugal** and **Italy** also.

Neither in **Ireland** nor in the **UK** is there any provision for equal treatment in law. There are, however, examples of company agreements in the UK that make such provision. In **Germany** also, there is no legal requirement for equal treatment. Indeed, there are examples of collective agreements that award lower wages to agency workers.

Typologies of regulation

The means of regulating the TWA sector in most Member States can be grouped into the following typologies.

The continental countries

This refers to Belgium, France, Italy, Luxembourg, Portugal, Spain and Germany. These countries have detailed regulation of temporary agencies and work. In both labour and company law TAW is seen as a distinct activity. Companies must obtain a licence to set up in business and are monitored by special institutions. Labour law restricts the type and duration of assignment at the user firm. The legal objective grounds for assignments are similar to those acceptable for limited duration contracts (except in Germany). The extensive legislation must be seen as among the most interventionist in the EU. While regulations are extensive and detailed, several national reports present evidence of non-observance of the law.

Despite the seemingly strict legislation, Belgium, France and Luxembourg, with long histories of agency work, have relatively high rates of TAW. The sector has been more recently legalised (but is still regulated in detail) in Italy, Spain and Portugal, and agency work is correspondingly less widespread. The most recent liberalisation of legislation occurred in Italy in 1997, where it has been accompanied by very rapid recent growth. In Spain, where deregulation came earlier, the rapid period of growth took place in the mid to late 1990s. Growth in Portugal has been more modest. Collective bargaining for temporary agency workers reflects the traditions of the various countries. Collective bargaining is most prevalent and most developed in Belgium and France; it is beginning to emerge in Spain and Italy, while in Portugal it remains negligible.

While sharing some of the extensive regulation of the other countries in this group, Germany is a special case. The objective reasons for TAW in the other countries conforming to the continental model do not apply in Germany. Regulation focuses instead on the duration of the worker's contract; it is not permitted that this should be for the duration of a single assignment only (the synchronisation ban). Until recently German unions have been strongly opposed to agency work and have not been prepared to negotiate agreements on TAW. While this situation is changing, collective bargaining is still relatively limited.

The UK and Ireland

The UK and Ireland share a common law system of labour law which has led to a rather different concept of agency work than that existing in other countries. For example, in the UK, those engaged in what is commonly referred to as agency work may be viewed as being employed at the user firm or the agency or may even be self-employed. Despite limited specific legislation on agency work, several laws do make special provisions for temporary agency workers, e.g. as regards working time in the UK and unfair dismissals in Ireland. However, as the specific legislation is limited, and above all because of generally liberal labour law (for example, as regards employment security), agency workers are awarded relatively little legal protection. A distinctive feature of

agency work in Ireland is that the user firm adopts many of the obligations of the employer, and may even be liable to the accusation of unfair dismissal.

The complex legal status of agency work in the UK makes it difficult to place a number on agency workers, and different definitions give very different figures. However, even the most modest estimate shows that with its long tradition of agency work, it is among the most TAW-intensive countries in the EU.

There are only a few minor sector-level collective agreements in the UK, most notably in the audiovisual sector. The big TWA companies, such as *Manpower Adecco*, have company-wide agreements, but as they constitute only a small share of the TWA business in the UK market, coverage is limited. In Ireland, according to the national report, collective bargaining on agency work appears to be negligible.

The Scandinavian countries

Denmark, Finland and Sweden have practically no special regulation of either the TWA business itself or of temporary work assignments, and the legal treatment of agency work *per se* is probably the most non-interventionist in the European Union.²⁷ However, this does not mean that less protection is awarded to agency workers than, for example, in the UK and Ireland. The lack of specific legislation means that agency work is not a distinct form of employment, and it must conform to mainstream labour law. In Finland and Sweden, statutory law provides significant protection to all workers and thus even to agency workers. Moreover, in Sweden, collective agreements cover the entire sector, and, most notably, award workers roughly 80% guaranteed pay regardless of assignment demand. Labour law in Denmark, particularly as regards employment protection, is appreciably less strict. However, several collective agreements have specifically addressed agency work and include special calculations of seniority to accommodate agency work.

Since prior to the legislation of the 1990s agency work could best be described as illegal, the current legal status of the sector in the Scandinavian countries represents a remarkable degree of deregulation, without a doubt the most radical shift in all the Member States. Its limited extent can probably be explained by the recentness of the reforms. It is notable, however, that in Sweden in particular, it is currently increasing rapidly.

Two countries fit very poorly into the classifications given above. The Netherlands is a distinctive model and is presented in detail below. Austria shares the liberal regulation of the Scandinavian countries, the UK and Ireland. However, specific legislation establishes TAW as an independent form of employment. A licence is required, and the law stipulates that with each assignment, both the social partners at the user firm and the temporary agency worker are informed of the conditions of employment. Unlike the Scandinavian countries, TAW was not prohibited prior to the 1990s and legislation dates back to 1969. Agency employers have not yet struck any significant collective agreements but attempts are currently being made.

The Netherlands²⁸

Until 1999 the Dutch model of agency work would have fitted firmly into the description of the continental model. However, recent regulation has several novel features and has been the object of much international interest. It is also the Member State with the largest percentage of agency

²⁷ We note, however, that this is not the case in Norway.

²⁸ See Chapter 2 for a more detailed presentation of the Dutch model.

workers in the labour force, where TWA collective agreements are most developed at the level of the sector as a whole.

The long process towards the new regulation has been strongly characterised by tripartite negotiation and consultation. Indeed, the body of regulatory instruments (comprising both statutory law and collective agreements) that date from the end of the 1990s can be seen as the high point of the Dutch 'Polder Model'. TWA regulation attempts to satisfy the most important needs of both social partners. On the one hand, the new rules are deregulatory in that they make it easier for agencies to operate without significant barriers to entry to the industry or control, while removing restrictions on placing temporary workers in user firms. Moreover, in terms of contractual status, the extreme 'employment at will' numerical flexibility of the previous legislation is retained during the first 26 weeks.

On the other hand, current regulations guarantee temporary agency workers progressively more secure employment and better pay and social security entitlements, with longer employment at the TWA. After 18 months with a single user enterprise or 36 months with various enterprises, they are entitled to an open-ended contract with the agency. Thus, it would appear that the regulators (and the trade unions) are prepared to yield to employer demands for numerical flexibility, with its ensuing precariousness for workers, only if there are guarantees that it will apply for a limited period only.²⁹ Collective bargaining within the TAW sector is highly developed in terms of the broad range of issues covered and the detail with which they are regulated. Almost the entire sector is covered by collective agreements.

With its liberal approach to assignments and stricter regulation of employment contracts with the TWA, there are reasons to believe that the Dutch model may be a good example of how the sector can be regulated. However, it must be underlined that it was implemented as recently as 1999 and has yet to be fully evaluated. Indeed, there are grounds to be cautious in prematurely pronouncing the Dutch model a success. The securing of employment rights depends on seniority. Experiences of limited duration contracts in many countries testify to the possibility of circumventing the intention (and sometimes the letter) of the law by the repeated use of limited duration contracts.³⁰ Further research is required to ascertain whether employers do in fact release agency workers before employment security becomes obligatory – only to rehire the same labour after a waiting period, or to take on other agency workers. However, the preliminary evaluation referred to in the Dutch national report does not testify to widespread abuse.

We return to these typologies at the end of Chapter 8 to discuss the major policy options that are available.

²⁹ This would appear to be a reasonable approach, since short periods of precariousness in the labour market do not necessarily lead to serious welfare losses for the workforce. The analogy with the welfare consequences of short and long-term unemployment is probably the best indication that this is in fact the case. In this context it should be pointed out that Dutch temporary agency workers are the youngest in the EU.

³⁰ It is relevant to note that this has been a prominent problem in the Netherlands. See Van Peijpe (1998) for the so-called 'revolving-door' problem, which the Flexibility and Security Act has indeed attempted to address.

Temporary agency workers and jobs in the EU: an empirical introduction

Although early, unsophisticated forms of temporary work organisations existed in the 19th century in Europe (and in the 17th and 18th centuries in the Netherlands and Great Britain), the modern temporary work industry did not emerge until the late 1940s and early 1950s, mainly in France, Great Britain, the Netherlands and the USA. *Manpower*, for example, was established in 1948 and has claimed to be the world's largest private employer.³¹

An estimation of the size of the sector in the European Union puts the daily average figure, in 1998, at 2.2 million workers, with 6 million persons employed at some time during the year (CIETT, 2000). However, it must be emphasised that there are serious problems with even the most basic labour market statistics on agency work. These are related to the lack of clarity as regards the concept of agency work, and for a given definition, the practical difficulties involved in gathering statistics. Moreover, as in many countries this is still a new employment form, the national authorities responsible for statistics have yet to incorporate it as a distinct industry classification or to ask questions about it in national labour force surveys. Indeed, much of this chapter, as well as Appendix 3 of this report (*Basic empirical information on temporary agency work*), is devoted to describing the various data and reasoning on the most appropriate sources. This may appear to be unnecessarily cumbersome, but as the data is decidedly shaky, transparency is probably the best policy. The final section of the chapter provides a summary of the statistics as regards numbers and the growth in agency work, and agency work by age, sex and industry. More sophisticated labour market statistics (although of even poorer quality) are presented in Chapter 6, in discussing job security, and in Chapter 7, which includes an examination of the role of temporary agency work as a means of integrating workers into the labour market.

Before proceeding with Europe, we may note that the United States has better data than most countries, but, as pointed out by Blank (1998), the two major data sources show quite different growth rates. Employer-based responses show that agency work increased from 0.5% of employment in 1982 to 1.9% in 1996, while data based on the labour force survey (CPS) shows a more modest increase from 0.5% to 0.8%. Using the employer-based data, employment grew rapidly throughout the 1990s and accounted for fully 10% of net US employment growth during the 1990s. By the end of 2001, approximately one in 35 US workers (2.9%) was an employee of *Help Supply Services*, which is primarily devoted to temporary agency work. Moreover, as turnover rates exceeded 350%, the number of workers who come in contact with agency work is appreciably higher than 2.9%.³²

The number of workers

The basic figure to be presented in this section is the average daily number of people who perform agency work as their main job. As much of the data is rather poor in some cases we rely on CIETT (2000), which, although far from perfect, was nonetheless previously the most comprehensive accounting of temporary agency work available. The CIETT (2000) data is mainly based on the national representative organisations for the sector. However, these methodologies are not clearly documented and may differ from country to country.

³¹ Manpower has 3,500 offices in 54 different countries, but mainly in France, the USA and the UK. In 1999 (according to the company's website) it had 20,100 staff employees and over 2.1 million temporary workers worldwide. *Adecco* is another global company with 3,000 branches in 49 countries and 300,000 temporary workers.

³² This data is cited in Autor (2001b).

Table 3 presents our best estimates for 1999. Details of how we have arrived at these, together with more recent figures for some countries and growth rates, are presented in Appendix 3. Table 3 shows that between 1.8 and 2.1 million temporary agency workers were employed in the European Union in 1999. This amounts to between 1.2% and 1.4% of total employment.³³ The major uncertainty is due to the conceptual difficulties in defining TAW in the UK.³⁴ The figures presented here for 1999 are lower than those presented by CIETT (2000) for 1998. This is mainly due to the different treatment of the UK. See country details in Appendix 3.

France, with over 623,000 temporary agency workers, has more than any other country and accounts for 30% of the EU total. The UK is the other major contributor to the European total. The Netherlands is the most TAW-intensive country, followed by Luxembourg, France, the UK and Belgium. The intensity is low in Austria, Germany and the Scandinavian and southern European countries.

Since 1992, the sector has grown dramatically and has increased at least five-fold in Denmark, Spain, Italy and Sweden and just under four-fold in Austria. The most recent data available in each country shows that agency work is increasing most rapidly in Italy and Sweden. It is notable that the lowest relative increase (or slight decrease, depending on statistical source) is in the highly TAW-intensive Netherlands.

Table 3 Temporary agency work in the EU, 1999

	Agency workers	Share of all agency workers in EU	Total employment (100s)	Percentage of total employment
Austria	24,277	1.2%	36,440	0.7%
Belgium	62,661	3.0%	39,552	1.6%
Denmark	18,639	0.9%	26,923	0.7%
Finland	15,000	0.7%	23,180	0.6%
France	623,000	29.9%	226,608	2.7%
Germany	243,000	11.7%	357,424	0.7%
Greece	0	0.0%	38,348	0.0%
Ireland	9,000	0.4%	15,591	0.6%
Italy	31,000	1.5%	202,918	0.2%
Luxembourg	6,065	0.3%	1,755	3.5%
Netherlands	305,000	14.7%	75,516	4.0%
Portugal	45,000	2.2%	45,656	1.0%
Spain	109,000	5.2%	136,577	0.8%
Sweden	32,000	1.5%	39,976	0.8%
UK (1)	557,000	26.8%	268,977	2.1%
UK (2)	254,000		268,977	0.9%
EU total (UK1)	2,080,642	100.0%	1,535,441	1.4%
EU total (UK2)	1,777,642		1,535,441	1.2%

Sources: **Agency workers**: national reports and CIETT (2000); **total employment** (100s): European Labour Force Survey. Population in employment aged 15-64.

The quality of the data

There is reason to believe that the statistics in Austria, Belgium, Germany, France, the Netherlands,³⁵ Spain,³⁶ and Luxembourg are of reasonably good quality (they usually emanate

33 The data on total employment is from the European Labour Force Survey and may differ from national definitions used in some of the national reports.

34 UK (1) is based on a special government report and includes self-employed persons and those for whom agency work represents a second job. UK (2) is based on the UK Labour Force Survey and is more in line with the definition of agency work used in this report.

35 However, in the Netherlands the exclusion of those working less than 12 hours a week in the LFS probably misses much agency work, and so data from the TWA sector is often used.

36 However, the Spanish data is presented in flows not stocks.

from official sources). In Portugal, Denmark, Finland and Sweden, they are of much poorer quality. In Ireland and Italy, the data are not only of poor quality, but various sources appear to conflict. In the UK, the very concept of agency work is somewhat confusing: as we have already seen, the main problem in trying to calculate the extent of agency work in the EU is how to deal with the UK. The total number of agency workers varies between 1.7 and 2 million, depending on the UK figure. Both these measures are appreciably lower than the CIETT (2000) figure.

There are suggestions in many of the national reports that the available statistics may be underestimates of the true figures. While this may be the case, it should be pointed out that there are also factors that may lead to an *overestimation* of the number of agency workers. Many of the available sources are from the TWA sector's representative organisations, and they may not always be able to distinguish between the stock and flow data which, given the rapid turnover in the sector, can lead to significant error. (See, for example, the discussion in Appendix 3 of the UK figures cited in CIETT, 2000.) Also, TAW may be a complement to another job for many workers, who would not be classified as agency workers in official national definitions and the European Labour Force Survey.

Moreover, suggestions about a hidden number of agency workers may relate to work that does not correspond to agency work as defined in this report. In common parlance, agency work may well be a catch-all term referring to such forms of work as outsourced or 'loaned' labour (which may be either legal or illegal), as well as to illegal work undertaken or provided to evade tax or immigration laws. While such illegal activity represent a serious problem, and may be abetted by some form of labour market intermediary, it is not clear that it should be seen as agency work. If we apply the definition used in this report, it almost certainly should *not*.

The estimates provided by the Foundation's Third European Survey on Working Conditions (Paoli and Merllié, 2001) may provide an upper limit in terms of figures for work that may be similar to agency work (legal or illegal) in some countries. See, in particular, the figures for Greece, Italy and Ireland.

Table 4 Agency work in the EU as a percentage of employment

Country	% of employment
Austria	1.7
Belgium	2.6
Germany	0.6
Denmark	0.9
Spain	2.4
France	3.3
Greece	4.4
Ireland	5.5
Italy	5.0
Netherlands	2.5
Portugal	0.4
Sweden	0.5
Finland	0.3
UK	2.3
<i>EU</i>	<i>2.3</i>

Source: Third European Survey on Working Conditions

There can be little doubt that the sector has grown very rapidly during the 1990s, between two and five-fold in most Member States (see Table 5 and Appendix 3). Growth data is usually more reliable than level data.

Characteristics of agency work and workers

Table 5 summarises the basic features of agency work and workers in the Member States. More detail can be found in Appendix 3.

The most salient feature of the age of agency workers is that they are generally much younger than other employees and are often younger than those on limited duration contracts. In most countries for which there is time series data, e.g. the Netherlands and France, agency workers have become older during the 1990s; in particular the group of those under 25 has declined. The Netherlands has the youngest workforce of temporary agency workers and the UK has probably the oldest.

Agency work is dominated by men, and apart from the striking exception of the Scandinavian countries, women are clearly under-represented. In Appendix 3, it is clear that this can be explained mainly by the sectors in which the two sexes work. This also explains the over-representation of women as regards limited duration contracts. The question remains, however: why do employers in industry (male) use agency work and employers in (female) services use limited duration work? We note, however, that the tendency is for agency work to replace limited duration contracts. The French report provides evidence of this in agriculture and services.

While several national reports mention an increased tendency towards more skilled and qualified jobs, all the evidence shows that any such trend is not significant. It does appear, however, that there is a move away from using agency workers in industry and towards their use in services.

Some of the national reports take up the ethnic background or nationality of agency workers. In Austria, where there are special restrictions on using foreign nationals (even those with a work permit) in agency work, 7.2% were foreigners. The corresponding figures were 18% in Germany and 14% in Sweden. In the Netherlands, Pot *et al.* (2002) note that in 1999, the proportion of ethnic minorities in total agency employment was only slightly higher, at 10%, than in all jobs.

In the UK evidence from the LFS shows that non-whites are over-represented in both fixed-term contracts and agency work, but that since 1992 differences have become less marked in relation to agency employment. However, the national report also cites some high-profile cases of possible discrimination in agencies' complying with employers' requests to only provide white staff. In Sweden, however, research by Fridén *et al.* (2000) indicates that temporary work agencies may play a positive role in labour market integration, and the TWA sector's representative organisation claims to have a good record in this regard.

Table 5 Characteristics of agency work and workers in the EU

Country	Extent (1999) and Growth	Age	Women	Sector	Other
Austria	24,277 (0.7%) Quadrupled since 1992	n/a	16%	51% industry and construction	
Belgium	62,661 (1.65%) Doubled since 1992	Average 30 <25, 46%	41%	65% industry and construction*	
Denmark	18,639 (0.9%) Five-fold increase since 1992	n/a	70%	23% industry and construction 27% healthcare 27% clerical	
France	623,000 (2.7%) Rapid growth	Average 29 <25, 28% Getting older	30%	58% industry and construction	46% are workers with the lowest levels of skills
Finland	15,000 (0.6%) From 11,000 in 1996	Average 32 <25, 19%	78%	Mainly services 22% clerical work	
Germany	243,000 (0.7%) Doubled since 1992	Average 32 <25, 37%	22%	50% industry and construction*	
Italy	31,000 (1.5%) Very rapid recent growth	Average 30 <25, 40%	38%	63% industry and construction	
Ireland	9,000 (0.6%) Moderate recent growth	n/a	n/a	80% industry and construction**	
Luxembourg	6,065 (2.3%) Doubled since 1992	n/a	25%	53% industry and construction (30% construction)	Many foreign workers
Netherlands	305,000 (4.0%) Doubled since 1992	Average 27 <25, 52% Getting older	49%	33% industry and construction	Very even sectoral distribution. Many students. 40% in parental home
Portugal	45,000 (1.0%) Doubled since 1995	Average n/a. <25, 38% No shift in distribution	40%	43% industry and construction	
Spain	109,000 (0.8%) Five-fold increase since 1995	Average 27*** <25, 51%***	43%***	40% industry and construction	
Sweden	32,000 (0.8%) Rapid current growth	Average n/a <30, 45%	60%	12% industry and construction Health sector significant	
UK	557,000 (2.1%). LFS: 254,000 (0.9%). Three-fold increase since 1992	Average 32 <25, 31% Getting younger	47%	26% industry and construction 29% financial services. Much clerical work	

* Agency work is prohibited in construction

** This figure is rather uncertain

*** These figures are probably too high but are the only ones available.

As has been pointed out several times in this report, the Netherlands is a very interesting country as regards agency work. Using other data reported in Pot *et al.* (2002) we can obtain quite an accurate profile of agency workers. In 1999, 40% of those who were below the age of 25 were also enrolled in some form of education programme, i.e. they were probably students financing their higher education. The table below, also from Pot *et al.* (*op. cit.*), gives us an even clearer picture. It shows that 40% of agency workers still live in the parental home. The increased share of main earners in agency work is consistent with the increased age of temporary agency workers.

Table 6 Socioeconomic position of agency workers in the Netherlands, 1993-1999

	1993	1995	1996	1997	1998	1999
In parental home	43	47	39	45	44	41
Single	22	20	22	22	19	20
Married/couple	34	31	38	32	35	37
(breadwinner in above)	(5)	(10)	(14)	(10)	(14)	(15)
Other	2	2	-	-	1	2
Total	100	100	100	100	100	100

Source: Algemene Bond Uitzendondernemingen (ABU)/Nederlands Economisch Instituut (NEI), 2000

While some workers express a preference for temporary agency work, there is ample evidence in the national reports showing that they are a minority. The driving force for the phenomenon is to be found in the demand from user firms for this type of labour, and in the TWAs' capability to supply it. Thus, in order to understand the growth of temporary agency work one must explain its economic rationale. This will be done primarily from the perspective of the user firm, which, as the final purchaser of these services, is the ultimate source of demand. This will be complemented with some thoughts on the broader implications for the labour market. However, even a cursory theoretical analysis also makes it clear that there are some economic problems with agency work. We emphasise the difficulties involved in financing investment in human capital, as well as issues related to teamwork, loyalty and trust.³⁷

The economic rationale for temporary agency work

Theoretical perspectives

There are several reasons why temporary agency work may be a suitable means of allocating labour to work. These are related, firstly, to risk diversification; secondly, to the productivity gains accruing from a more efficient division of labour; thirdly, to the increased degree of flexibility afforded to the firm; and finally, to enhanced efficiency of the labour market due to the improvement in the matching of personnel and jobs.

Risk diversification

Early contributors to the theory of the firm, in particular Frank Knight (1921), focused on the trading of risk and authority that takes place between the worker and the firm. The risk to the worker is that of the income insecurity that would arise from 'spot' trading his or her labour services on the market. Firms, being less risk averse, are willing to take on some of this risk. In return, the worker surrenders authority to the employer. The surrender of authority helps deal with worker moral hazard (for example, shirking on the job) and satisfies the firm's preference for liquidity (Simon, 1951). The risk adopted becomes related to the economic viability of the firm. It comprises risks specific to the firm (e.g. good or bad management decisions) and market risks, which are largely outside the firm's influence.

Temporary work agencies manage a portfolio of employment opportunities, which are found in many user firms and may be located in different economic sectors. This diversity enhances the potential of the TWA to embrace more risk than other employers, and thus may lead to higher levels of profit and employment. However, if risk is related to a macroeconomic shock across economic sectors (e.g. increases in oil prices or interest rates), the risks cannot be spread and thus there is no benefit to organising labour in temporary work agencies.

Division of labour

The activity of TWAs implies the outsourcing of the recruitment function by the user firm.³⁸ The relevant theoretical literature is that concerned with the boundaries of the firm: when should it use the market to acquire the labour services it needs, and when should it acquire these services itself? Note that here we are talking about outsourcing the *acquisition* of labour services rather than their utilisation.³⁹

37 This chapter is largely based on Schmid and Storrie (2001).

38 Agencies are also engaged in other activities, for example the outsourcing of labour. The distinctive feature of temporary agency work from the perspective of the user firm is the outsourcing of the recruitment function.

39 While the distinctions may not always be clear, we argue that the use of the agency worker at the user firm does not represent 'outsourced' labour in the usual sense. For example, unlike sub-contracted labour, agency workers subject themselves to the authority of the user firm, will generally participate in the firm's usual activities, will use the firm's equipment and so on. There is evidence in the national reports, however, that temporary work agencies do also provide sub-contracted labour.

The literature (see, for example, Milgrom and Roberts, 1992) suggests that a firm will procure services in the market when the inputs are standardised (in this case, labour services); there are several competing suppliers (in this case, temporary work agencies); economies of scale exist in these supply firms that are too significant to be duplicated by the buyer (the user firm); economies of scope exist that would otherwise force the vertically integrated firm (the user firm) into unrelated business; and no specific investments on the part of either the buyer or seller (the user or the TWA) are involved. How suitable it may be to outsource the recruitment function will thus depend on the degree to which the above conditions are met in specific markets.

Flexibility

Perhaps the most obvious potential advantage of TAW for user companies is that it allows them to use labour services only when needed, without any adjustment costs.⁴⁰ The issue of labour market flexibility has dominated much recent research and debate on European labour markets. We will not, however, address the pros and cons of flexibility and its regulation here, but will rather show the nature of labour market flexibility specific to temporary work agencies.

As the relationship between the user firm and the agency worker is not regulated by any form of employment contract, it should be obvious that TWAs may provide their client firms with a greater degree of numerical flexibility than almost any other form of employment.⁴¹ In this context it may be useful to compare agency work with one of its closest substitutes, namely limited duration contracts.

First, it may be assumed that some limited duration contracts will eventually become open-ended contracts. This assumption may exist in law (it is the case in some countries as regards probationary contracts) or by reason of social norm. Moreover, a limited duration contract applied incorrectly (for example, by repeated use) may lead to legal sanctions, such as fines or the obligation to make the contract open-ended. Second, many forms of limited duration contracts cannot be terminated at will. Indeed, the termination of the limited duration contract in advance of the implied expiry date may require stronger grounds in law than those applying to open-ended contracts. With TAW, the only source of numerical *inflexibility* for the user firm lies with the commercial contract between the agency and the firm, and, while it is conceivable that such a contract might include clauses limiting full flexibility, these are unlikely to be particularly extensive. Flexibility in terms of rapid hiring or firing in response to labour demand may be enhanced by outsourcing the recruitment function.

Job matching

Another potential benefit of agency work lies with the exchange of information that takes place between the worker and the user firm during the placement period, the worker getting a chance to assess working conditions and the characteristics of the job; the employer to assess the capabilities and input of the worker. This occurs without any commitment whatsoever as regards a possible future employment relationship, is without cost to either party, and, since it takes place in a realistic situation, may be presumed to be a very informative interchange. This situation is, of course, similar to that which arises with a probationary contract. However, as mentioned in the discussion on flexibility above, limited duration contracts and agency work differ as regards the

⁴⁰ This does not mean that such flexibility comes free to the user company, of course. Indeed, the flexibility premium corresponds closely to the agencies' profit. However, the different cost structures imply that the overall employment effects of TAW cannot be analysed in the dynamic labour demand framework. See Nickell (1986) and Bertola (1990).

⁴¹ One could argue that 'dependent self-employed' and 'on-call' contracts may provide a similar degree of flexibility, but workers engaged on this basis cannot be as efficiently recruited as through an agency firm.

commitment to hire on a more permanent basis. Moreover, the transaction costs involved in facilitating probationary periods are likely to be much lower when they are mediated through the TWA than if the worker and the firm had to find each other without this intermediary. Agency work may thus be able to expose more workers to more firms, and achieve more and better job matches.

Another potentially important issue as regards agencies and job matching is the role of new information and communication technology (ICT). One might imagine that the advent of these technologies would diminish the need for intermediaries. However, Autor (2001a) argues convincingly that the opposite is probably the case.

Empirical evidence

As a first step in gathering empirical evidence, let us examine what the user firms themselves say about agency work. A recent European survey in CIETT (2000) reported that the majority of firms using TAW did so to replace ‘permanent’ employees (27%). The other important motive categories were seasonal fluctuations (23%) and unexpected peaks (21%) – see Table 7.

Table 7 Reasons for using temporary agency workers, weighted responses⁴²

Reason	%
Leave replacements	27
Seasonal fluctuations	23
Unexpected peaks	21
Recruitment	11
Uncertain growth	9
Specialised tasks	4
To do regular work for another reason	3
To do regular work cheaper	1
Total	100

Source: CIETT (2000)

As the CIETT (2000) survey addressed identical questions to user companies in the five countries that account for over 90% of agency work in the EU, the results may be seen as quite representative. Many of the national reports refer to similar employer surveys lending strong support to the picture presented in Table 7, and showing that the prime motive for hiring agency workers is to replace a worker who is on leave or otherwise absent. Most public debate on the rationale behind agency work focuses on the concept of flexibility, often referring to the new organisation of work or the weaker position of organised labour in recent decades. While the replacement of absent employees is perhaps a less intriguing phenomenon, survey evidence in most countries testifies to its continued significance as a motive for hiring agency workers.⁴³ Where data is available, the national reports often show it to be the *most* important reason, and in the UK, the highly regarded WERS survey cites it as the motive in 60% of cases.⁴⁴ According to the national reports, a survey in Germany showed it to be a very common reason; it was the most common reason in Luxembourg and Belgium. Data in other countries may not be able to rank employer motives as clearly, but it is also cited as being of major importance in Austria,⁴⁵ Sweden⁴⁶ and Finland, and it was previously the most important reason in Italy. Pot *et al.* (2001)⁴⁷ shows that in

42 In 1999 CIETT interviewed 500 clients of TWA companies in Germany, the UK, Spain, France and the Netherlands.

43 There are claims – but rather limited evidence – that this motive is declining in relative importance.

44 See Table A22 in Appendix 3.

45 Indeed an expert at the Austrian Chamber of Economics stated that TWAs get most of their business during vacation time.

46 Leave replacement is by far the most important reason for a limited duration contract in Sweden; see Storrie (2001b).

47 Source: Organisatie voor Strategisch Arbeidsmarktonderzoek (OSA), 1995.

the Netherlands, 'replacement because of illness/leave' is by far the most important reason for hiring agency workers in the public sector, and is the second most important reason in the private sector.

However, several national reports (often using sources close to the TWA sector) indicate that agency work is increasingly less likely to be something the user firm has recourse to when unexpected variations in staffing needs arise, but has rather become a conscious and integral part of personnel strategy. Thus, for example, in Austria: 'Increasingly, temporary work is used as an instrument of staff policy'; while in Belgium: 'TAW thus increasingly appears to be ... forming a regular part of companies' labour management practices.' In Germany, it is '... increasingly used as a normal instrument of long-term staff-planning'.

However, there is little evidence as to what role agency work plays in personnel policy other than that it is used to fill vacancies for a probationary period prior to 'permanent' recruitment. The French report pursues this matter in some detail, referring to several research sources that testify to the strategic role of TAW. They cite the highly TAW-intensive motor manufacturing industry. This research views the TWA as a subcontractor or supply firm providing services, and thus susceptible to several of the points made in the theoretical section above. Other research cited in the French report refers to cost-saving economies of scale, thanks to standardised procedures, the use of information technology and substantial contracts for agency workers.⁴⁸

While generally, the evidence in the national reports of TWAs playing a more integrated role in firms' personnel strategies is not very well documented in quantitative terms, it is apparent from the agencies themselves that they do provide services other than the supply of agency workers. For example, in the UK, only 2% of agencies *only* supply agency workers. In Sweden it accounts for 90% of sector turnover; in Denmark, 70%. Indeed, TWAs contribute to the sector with the most rapidly expanding employment growth rate in the EU, namely producer services.⁴⁹ The French report even refers to 'allied activities, such as technical and financial assistance', and illustrates this diversity by referring to the *ECCO* group, which receives only 60% of its turnover from temporary placement activity. Most national reports mention activities such as recruitment, sub-contracting and training/recruitment.⁵⁰

While it is prohibited for TWAs to engage in activities other than temporary work in several Member States (see Chapter 2, Table 1), almost all the national reports refer to agencies increasingly becoming involved in recruitment-related services. The distinction between the work of the temporary agency and recruitment may be rather unclear, and it may also be uncertain whether the respondents are referring to recruitment services in the strict sense or to the function of the temporary assignment as a probationary period. There does appear to be considerable potential for economies of scope in agency business, and the national reports provide no sound reasons why other activities should not be allowed. We should note, however, that most of these associated activities (recruitment, sub-contracting and the like) are also likely to vary over the business cycle, and thus provide limited potential for stabilisation (see Chapter 6).⁵¹

48 A further indication of the importance of economies of scale is the evidence provided in several of the national reports as regards the concentration of TAW in large metropolitan areas, most strikingly in Sweden. To quote Adam Smith, 'The division of labour is limited by the size of the market.'

49 Storrie (2001a) presents data showing producer services (i.e. services provided to firms) to be the most rapidly growing sector of employment in the EU in the last 15 years.

50 In Greece, where agency work as defined in this report is not permitted by law, 'TWA-type' companies engage primarily in 'private job counselling'.

51 An exception is the use of TWAs in downsizing, as mentioned in the French report.

To the extent that agency workers replace other staff (shown in Table 7 to be significant), it is obvious that many have non-specific, rather general skills. This does not *necessarily* mean that their skills levels are low – but low skills are certainly often quite general. Almost by definition, the labour hired out by the agency is not ‘firm specific’. While highly skilled professionals may be supplied for specialist tasks (the user firm availing of the agency’s economies of scale), the empirical evidence shows that these are in a clear minority.

It is often assumed that agency employment offers the user firm a very numerically flexible form of labour.⁵² This is obviously the case in terms of employment contracts, since there is no contract between the user firm and the TWA worker.⁵³ However, the commercial contract with the TWA may not allow for full flexibility, for example, in terms of a single day. Some limitation on the flexibility of commercial contracts is mentioned in the German report, although the responses of employers in France claimed that agency work, along with overtime, was the easiest way to increase labour input.

The rather limited evidence in the national reports on agency work as a device for matching workers to jobs is taken up in Chapter 7. However, several of them cite agency workers who consider agency work to be a useful means of making contact with employers.

It was mentioned in the previous section that the existence of many competing suppliers contributes to the usefulness of TAW for the user firm.⁵⁴ All the national reports testify to an ongoing process of concentration within the TWA sector, and most of the big multinationals operate in most Member States. As can be seen from Table 8, the degree of concentration varies quite considerably between Member States.

Despite this high level of concentration in several countries, it is probable that competition is still quite stiff. The French report testifies to cases of severe price competition, and, as pointed out in the UK report, the nature of the industry implies few economic barriers to entry.⁵⁵ Furthermore, it would appear that even in the most concentrated industry structures, there are a very large number of very small firms with very rapid firm turnover.⁵⁶

Table 8 Market consolidation in the TWA business in 1998, expressed as combined market share of the top five companies

Country	Concentration
Sweden	85%
France	80%
Belgium	78%
Netherlands	76%
Italy	68%
Spain	68%
Denmark	65%
Finland	63%
Luxembourg	51%
Portugal	35%
Germany	21%
UK	16%

Source: PrEA survey (in CIETT, 2000), Fortis Bank, ABN-AMRO, OneSource, Deloitte & Touche Analysis.

⁵² In this context flexibility can be seen as the absence of adjustment costs.

⁵³ The unusual Irish case may be an exception (see Chapter 2).

⁵⁴ In other words, the sector is competitive.

⁵⁵ Such barriers do exist in some Member States, of course, e.g. the need for financial guarantees.

⁵⁶ In 1995, the last year when authorisation was required in the UK, one-fifth of firms existing the previous year did not renew their licences.

Rather surprisingly, the results of the CIETT (2000) survey (Table 7) suggest that cost savings is not a significant factor in the use of agency work. There is evidence, however, in practically every national report, to suggest that this *may* be important – and certainly lower pay appears to be a very common major cause of complaint among employees. The issue of pay is taken up in Chapter 6. Some of the national reports also question the economic rationality of user firms when employing agency workers.

Macroeconomic perspectives

While there is very little empirical research on the macroeconomic impact of TAW, the topic is nonetheless an interesting and important one. Several of the potential advantages of agency work that are mentioned above may also lead to improved ‘job matching’ in the labour market and may thus reduce frictional unemployment. Katz and Krueger (1999), in seeking to explain the non-inflationary fall in unemployment in the US in the 1990s, suggest that TWAs may have played an important role. They note that while the sector is still relatively small, worker flows are appreciably higher. They present some evidence suggesting that the availability of agency workers may lessen the wage pressures that usually accompany tight labour markets, possibly by enabling firms to fill vacancies quickly and perhaps more cheaply and with better matches, without having to adjust their overall wage structure. While they term their results ‘highly speculative’, they suggest that TWAs may thus have played a major role in the decline of US unemployment from 1989 to 1998, and emphasise their potential to improve the functioning of the labour market by reducing frictional unemployment without increasing inflation.

There is little research on the net employment effects of TAW. However the CIETT (2000) survey may shed some light on the scope of TWAs to adopt more risk and thus create more employment. In interviews, the user firms were asked if the tasks for which agency workers were employed would have been carried out if these workers had not been available. 17% replied that the tasks would not have been performed at all, suggesting that TWAs contribute to net employment creation. The fact that most of the tasks that would not have been performed were related to uncertain growth and peaks in labour demand suggests that the risk adoption factor may be important. Finally, Neugart and Storrie (2001) examine the macro impact of temporary work agencies, using an equilibrium unemployment model of the labour market. The theoretical analysis suggests that the improved job matching capability of agencies may serve to reduce unemployment and increase net employment.

Economic problems associated with temporary agency work

Despite the economic benefits of agency work mentioned above, TAW would not appear to be appropriate to all economic activities. Several indicators suggest that there is little formal training of agency workers, and it may thus be unsuitable for activities demanding high skills levels. Indeed, the lack of investment in human capital is one of the main concerns with agency work. The international organisation for the TWA sector, CIETT, understands and recognises the problem, which may be significant in limiting the further spread of TAW (CIETT, 2000). Another problematic feature of agency work is that it may not be appropriate where loyalty and trust are important to the particular economic activity.

The acquisition of human capital

It is obvious that there may be problems in ensuring an adequate level of training for temporary agency workers. As the worker will be at the user firm only for a limited time and indeed, is usually

employed by the agency, much training from the user firm can hardly be expected. Thus, most training will be provided by the agency. Here, the problem can be framed in terms of theory on human capital, related in particular to the question of the TWA securing a return on its investment.

As the function of the TWA is to provide several user firms with labour, it is obvious that the skills supplied are not firm specific. Indeed, the concept of agency work is based on transferable skills traded in an occupational labour market. According to human capital theory, firms will not be prepared to pay for investment in non firm-specific human capital, since – given that the worker is free to leave to go to another firm – they cannot ensure a return on their investment. The likelihood of temporary agency workers leaving (the agency) is higher than with most other forms of employment, as they generally do not have a preference for agency work and their assignments at user firms provide ample opportunities for ‘poaching’. However, while most national reports refer to the problem of lack of training for temporary agency workers, it must be underlined that in most countries, either the TWA, the user firm, or both, provide some form of training.⁵⁷ According to the Third European Survey on Working Conditions, on the other hand (Paoli and Merllié, 2001),⁵⁸ temporary agency workers have less access to training and less opportunity to ‘learn new things’ in the workplace than any other category of worker (other contract forms).

Autor (2001b) asks why temporary work agencies provide free general skills training. His answer is that training, in addition to fostering human capital, serves two complementary informational functions. One is to induce self-selection: firms that offer training are able to differentially attract workers of greater unobserved ability. A second is to facilitate worker screening: by closely linking worker training and skills testing, the agency uses training to privately assess the ability of workers.

Moreover, in some sectors (like health and care), training is semi-compulsory and may be explicitly paid for by the user organisation as part of a package of active labour market policy instruments paid for by the labour authorities. (The latter phenomenon is taken up in Chapter 7.) Several national reports (for example, the Danish and Dutch) mention that competitive considerations lie behind the provision of training: the need to attract staff. However, the general picture is one of low investment in training. For example, the German report testifies to the low level of training provided in agencies, and states that the most common disadvantage to using agency workers cited by user firms is ‘poor-quality staff’. There are, however, examples of collective agreements that provide for training during working hours.⁵⁹

In principle there appear to be three solutions to the problem of funding training: it may be financed by the worker; by the state or some other appropriate body; or by the TWA, which is compensated for its investment in this training if the worker leaves the agency. While these alternatives may at first appear unlikely, there is some evidence in the national reports to suggest that all three are used.

The first option – that workers finance training themselves – is not explicitly referred to in the national reports. However, even when training is formally paid for by the TWA, the cost (in terms

57 Perhaps the most reliable data is from the UK, where, according to the Labour Force Survey, 21% of agency workers had received training in the preceding 13 weeks, compared to 39% of those on fixed-term contracts and 28% of those with open-ended contracts. A survey conducted for the Health & Safety Executive reports that a higher proportion of agency workers – 69% – had received some training either prior or during their engagement. It is interesting that in the majority of cases (59%) the training had been provided by the user firm and not the agency (9%); however, it may be that this relates largely to H&S training.

58 There are several references to this survey in this report, and it should be noted that in many cases the responses may reflect not just agency work *per se*, but also the specific characteristics of the job or worker.

59 Tarifvertrag EXPO 2000.

of either lost production or explicit costs) may be passed on to the workers through lower wages. There is no lack of evidence of low pay in agency work – see Chapter 6.

In the Netherlands, TWAs are obliged by the main collective agreement to conduct a ‘training interview’ with the agency worker after six months. A percentage of his or her monthly wage is paid into a training fund. A separate foundation supervises the expenditure. In Italy, Spain and Portugal, the TWA has a legal obligation to contribute 1% of total salary to a training fund.⁶⁰ This is a special obligation applying to agencies only. Despite this, the Italian and Spanish national reports cite union concerns about training levels, while in Portugal, the General Inspectorate of Labour states that only 0.3% and not the statutory 1% is allocated to training. While such legislation may to some extent serve to address the shortage of training in the TWA sector, the sector itself is not the most logical unit of finance, since it may be not the agency but the user firm that benefits from the investment. The lack of return on investment may be one reason why, despite the regulation in southern Europe, non-observance of the law is reported to be so widespread.

A more promising financing body is that cited in the UK report in the broadcasting sector, where training is coordinated by an industry agency partly financed by a training levy paid by members of the producers’ association (PACT) – i.e. by the user organisations. The report notes that the trade unions are reasonably satisfied with this situation.

Another means of shifting the cost of worker training to those who benefit, i.e. the user firms, is found in the UK, Dutch, Finnish and Irish reports, which refer to a ‘transfer fee’ or ‘temp to permanent fee’ which agencies are able to charge if the worker is offered (and accepts) a job in the user company. In the UK, this amounts to 15%-20% of the worker’s starting salary.⁶¹ However, the matter is currently under review, and a government consultative document considered that this fee discourages user firms from offering direct employment and is thus harmful to temporary workers, a view shared by the unions. While a bill has yet to be presented to Parliament, the draft legislation seeks to ensure that if a user firm wishes to employ a temporary worker on a permanent basis, it is entitled, on notifying the agency of its intention, to extend the period of hire as an alternative to paying a transfer fee. After the extension period has elapsed, the firm will be able to employ the worker directly with no liability for further payment to the agency.

The problem of recouping the investment aside, we should note that there may be advantages to training workers through the agency because of the potential for exploiting economies of scale. A clear example lies with the basic secretarial skills that characterise a typical category of agency job. User firms could either hire and train secretaries in basic word-processing skills themselves, or they could purchase these services from an agency. Economies of scale would suggest that agencies could do the training more efficiently.

We should also point out that in some ways, agency work may be conducive to the acquisition of certain types of human capital. Labour market skills can be acquired by means other than formal or on-the-job training from a single place of work – the process characteristic of internal labour markets.⁶² Indeed, some recent research suggests a tendency towards the erosion of internal labour markets in favour of network-type labour markets, and the renewed importance of occupational

60 In Spain, the major TWA collective agreement stipulates a further 0.25%

61 The Italian TWA employers’ federation, Confindinterim, suggests the introduction of such a fee to compensate for selection and training.

62 See Schmid and Storrie (2001)

labour markets. In both cases, it is not the length of service at a single firm, with the formal or informal training that can be acquired there, that is important. Instead, experience of a wide range of projects and various forms of cooperation give workers the edge in terms of knowledge accumulation.⁶³ In this context, TAW can be seen as an occupational labour market that provides workers with ample opportunities to acquire a broad range of experiences, skills and networks that may contribute to future employability. Evidence in some of the national reports (relating to worker responses as regards TAW) suggests that this may be an important issue. The fact that agencies are increasingly being used as an instrument of active labour market policy may be an indication of the usefulness of agency work for the accumulation of experience and knowledge, in addition to the purely job-matching purposes it may serve.

Teamwork, loyalty and trust

Another potential economic disadvantage of agency work is that it may not be conducive to teamwork and may be inappropriate where loyalty and trust are important. The Austrian report cites research in both Austria and Germany indicating that rapid turnover in user firms leads to various problems and 'hidden' costs. Problems may arise from conflicts between regular staff and temporary employees. The report also mentions the difficulty of creating corporate identity among unskilled casual workers, and the cost, often neglected, of a lack of company know-how. According to the Third European Survey on Working Conditions (Paoli and Merli , 2001), agency workers are the least likely of all workers (all contract forms) to 'get assistance from colleagues'.

In France, user firms are least likely to use agencies for wage payment services, which may point to the trust factor. On the other hand, agency workers are also employed in sectors where trust ought to be important: for example, in banking in the UK and healthcare in Denmark, both of which are distinguished by high numbers of agency workers. Moreover, it is not necessarily the case that a long period of employment is required to build teamwork; indeed, some agency workers are prototypical teamworkers.

63 See, for example, Capelli et al., 1997, and Marsden, 1999.

Pay and working conditions

As will become apparent from the presentation of the available data in the national reports, basic statistics and research on the working conditions of temporary agency workers are very limited. However, there are many reasons to suppose that agency work may lead to poorer pay and working conditions than many other forms of employment. The frequent change of workplace and the dual employer roles may raise health and safety issues, and all matters that require representation rights in order to bring about decent working conditions will be particularly problematic.

The strategy of this report is to build on the results of research on other forms of precarious employment, in particular limited duration contracts. The Foundation research on precariousness provides indicators to the effect that poor working conditions are related to precarious forms of employment. While some of this relates to the socio-demographic characteristics of employees and the characteristics of the specific job, there is evidence that these poorer conditions can be related to precariousness *per se*. While temporary agency work is not equivalent to limited duration contracts, its precariousness is often cited as a problem as regards working conditions, and this is of major concern to agency workers. Thus, this chapter will start by examining the extent to which agency work is precarious in the same respect as limited duration contracts, i.e. in terms of job security. We then proceed by examining particular forms of precariousness specific to agency work. We examine in particular the frequent change of workplace and the dual employer responsibility.

While the focus here is largely on agency workers, it should be underlined that the welfare consequences of agency work are not confined to agency workers alone. A key issue in the failed negotiations in the European social dialogue was equal treatment between agency workers and workers directly employed at the user firm. From the perspective of the trade unions, this may have been partly based on concern for agency workers. However, concerns that the latter's poorer pay and working conditions might also undermine the position of directly employed workers must have been at least as important. Some of the national reports testify to concern over this potential 'spillover' effect, but no research has addressed the issue.

Job and income security

Starting on a positive note, a comparison between TAW and limited duration contracts highlights one of the most important *potential* social advantages of agency work: it can provide an open-ended contract for the worker while contributing to numerical flexibility for the user firm. Any type of limited duration contract is by definition associated with job insecurity and with negative consequences for employees.⁶⁴ However, in contractual terms, employment with a temporary work agency does not necessarily mean employment insecurity, and some agency workers have open-ended employment contracts.⁶⁵ Thus, temporary agency work could help resolve one of the major conflicts in European labour markets in recent decades, namely the reconciliation of companies' preference for flexibility with workers' preference for job security. While of course there are problems that are specific to agency work, TAW does, in principle, provide one means of attaining a 'positive sum' solution to this basic conflict of interests for the types of economic activity for which it is otherwise suitable. As such, the 'flexicurity' aspect may provide the basis for a compromise, with mutual benefits to the social partners on either side.⁶⁶

Job security in temporary agency work

It must be emphasised at the outset that the precarious nature of agency work *is* a major concern

64 See Benavides and Benach, 1999; and Paoli (1991; 1996).

65 We use the term 'open-ended contract' to denote what is sometimes termed 'permanent contract'. 'Open-ended' indicates that one is employed until further notice.

66 As pointed out in Chapter 2, this was the basis for the compromise achieved under the current Dutch regulatory regime.

in terms of job security, and in most countries most agency work is *not* typically performed with an open-ended contract. Even where it is, the sector's extreme sensitivity to the business cycle may result in considerable *de facto* precariousness.⁶⁷ Precariousness is thus by no means perfectly correlated with contractual form, and may be related to business cycle volatility or other characteristics of the sector in which agency work is most prevalent. Volatility or job turnover will also depend on the characteristics of the workforce, as TAW may attract people with a higher-than-average propensity to quit, e.g. workers with a lower level of commitment to labour force participation, such as students or those with family responsibilities.

We will not dwell here on issues exclusively associated with precarious jobs. This is well documented elsewhere. After establishing the degree of precariousness of agency work, we can refer to research conducted by the Foundation and elsewhere, and can then focus on those working conditions issues that are unique to agency work.

Only very sparse data is available to study the business cycle variation of any work. Apart from the usual problems with the quality of the data, in many countries the TAW sector has only existed in the period of strong recovery that followed the recession of the early 1990s, and it has yet to experience a downturn. In this respect, current developments in European labour markets (when the business cycle dips) should be carefully observed. However, there are many reasons to suppose that this will be a volatile sector, for both institutional (contractual) and economic (business cycle) reasons, as well as those related to the socio-demographic composition of the workforce (primarily young).

The French national report presents excellent data on the cyclical development of temporary agency work. Between 1993 and 2000, the growth rate in the number of workers engaged in agency work exhibited a similar – but more marked – cyclical pattern to that of workers on limited duration contracts. Thus, this data shows that agency work is in fact more volatile than employment provided with limited duration contracts.⁶⁸ In the Netherlands, up until 1999 agency work increased more rapidly than limited duration contracts. Both declined in 1999, but the relative decline was greater for agency work. Similar trends can be found in other countries. Despite the significant increase in the number of temporary agency workers in Austria – from 8,000 in 1989 to 30,000 in 2000 – the downturn in the business cycle in the 1991-1993 recession resulted in considerable net job losses. A similar pattern can be found in Belgium.

In Germany, data presented by Boockmann and Hagen (2001) shows that TAW is appreciably more cyclical than limited duration employment and that agency work increased very rapidly after the recessions of 1975, 1982 and 1993. In the UK, turnover was £7 billion in 1990, fell to £4.5 billion in 1993 and by 1999 was £17 billion. The UK national report cites market research sources which estimate that by 2002, the sector will decline. The Finnish report cannot present data but cites sources in the sector expressing concern about business cycle sensitivity as the reason why TWA firms broaden and diversify their activities.⁶⁹

67 One could argue, however, that even when business cycle shocks hit the economy asymmetrically, TAW may still provide more employment security because of the risk diversification factor outlined above.

68 Limited duration contracts provide the best basis of comparison as regards precariousness, both because of the existing research on working conditions, and because fixed-term contracts are probably a close substitute for agency work. The business cycle volatility of limited duration contracts is the focus of Holmlund and Storrie (2002).

69 However, as noted above, most associated activities are also rather sensitive to the business cycle.

There is little information on the type of contract offered to agency workers by the agency, although in most cases it is of limited duration. The Spanish national report presents data for contract duration, presented in Table 9. Note that this relates to the duration of the contract with the agency, not the assignment at the user firm.

Table 9 Contracts registered in temporary work agencies in Spain, 1995-1999, according to the duration of the contract (%)

Duration	1995	1996	1998	1999
1 month or less	35.9%	47.3%	56.1%	43.6%
1-3 months	0.1%	4.5%	4.8%	5.7%
3-6 months	2.2%	1.9%	1.5%	1.4%
6 months -1 year	0.3%	0.2%	0.1%	0.0%
More than 1 year	0.0%	0.0%	0.0%	0.0%
Indeterminate	56.4%	45.9%	37.3%	49.1%
Permanent	0.1%	0.1%	0.0%	0.2%
<i>Total number</i>	361,816	748,923	1,707,842	1,892,284

Source: Official national sources as quoted in national report.

Thus the vast majority of contracts were for a month or less. In Italy, 68% of contracts are for under six months and only 6% are for more than a year. In Portugal 41% of contracts are for less than three months.

In Germany, data presented in Boockmann and Hagen (2001) show that the contract with the agency is significantly shorter than is the case with limited duration contracts. Roughly 12% are for less than a week and 52% are for under three months. The Finnish national report shows that contract duration varies appreciably between different occupations. In 1999, the average was 51 days, but for clerical work it was 111 days and for services only 6 days.

Table 10 Average duration of temporary agency employment contracts in Finland (in days), 1996 and 1999

Sector	1996	1999
Clerical work	76	111
Services (restaurants and trade)	4	6.2
Industry, warehousing, transport	50.5	90
Booking agencies	6	7
Health services	-	21
Total	-	50.8

Source: Temporary Agency Employers' Association.

An important observation in the Finnish report is that the average duration of TWA contracts is less than that of temporary employment relationships in general.

Thus, both the macro and micro data testify very clearly to short contract duration – in all cases where there is compatible data, shorter than is the case with limited duration contracts. Even though the evidence is scattered, it all points to precarious security of employment and indicates that previous research on employment security and poor working conditions may apply to temporary agency work also.⁷⁰

⁷⁰ We note also that the socio-demographic characteristics of the workforce, in particular the fact that it is young, also suggests short duration of employment.

Other sources of insecurity in temporary agency work

The extent to which agency work is precarious in terms of employment status is of course only one aspect of security. Other issues particular to TWA are the variation and uncertainty of working hours and the precariousness resulting from the frequent change of workplace.

Working-time security

A potential source of insecurity for agency workers is the unavailability of assignments, and there are seldom any guarantees that those who desire full-time work will be offered it, monthly or weekly. However, Sweden probably provides the greatest degree of working-time security of all Member States. By means of several inter-sector agreements, covering practically all agency workers, employees are guaranteed a minimum income corresponding to roughly 80% of a full-time working month. By law, Italy and Germany also provide pay even during periods without work, but only to those with open-ended contracts

Significantly less working-time security is provided in Denmark, where the national report states that most temporary agency workers are employed on a limited duration contract, typically on an hourly basis equivalent to the length of the assignment. However, it is pointed out that especially in the healthcare sector, a few hours agency work is sometimes combined with a part-time job in the public sector, and that part-time agency work is freely chosen. The Finnish national report, on the other hand, claims that many agency workers have to do involuntary part-time work when they would rather work full-time.

The UK report testifies to complaints of 'shorter than expected hours per week' – but long hours are also cited as a particular problem. However, data from the Labour Force Survey shows that while in 1992, 35% of the temporary agency workforce worked part-time, by 1999 this had fallen to 25%, the same level as among the general workforce. Moreover, part-time employment is much higher for other forms of temporary employment, accounting for 34% of limited duration employment, 54% of seasonal employment, and, not surprisingly, 85% of casual employment.

In France, Macaire *et al.* (2001) conclude that TAW offers 'the most difficult working-time conditions,' pointing in particular to the greater irregularity and the lack of autonomy in deciding on working hours. The Spanish report also testifies to how difficult it is for agency workers to plan their working week.

In Portugal, the Labour Inspectorate (IGT) cites problems related to working conditions and stress, in particular the excessive hours of work. They claim that temporary workers frequently work more than 10 hours a day and/or do not have a pre-defined timetable but must be available 24 hours a day, seven days a week.

According to the Third European Survey on Working Conditions, however, (Paoli and Merllié, 2001), agency workers have the shortest working hours and are more likely to do shiftwork than workers employed with any other form of contract.

Constant change of workplace

Perhaps the most marked feature of agency work that gives rise to insecurity is that agency workers may have to change their workplace continually. This may have important consequences for the

social life of the worker. Such experiences as having work colleagues (both during and after working hours), working together for common goals, observing the fruit of one's labour materialise and receiving support and feedback from workmates may be difficult for agency workers to achieve. These experiences have been extensively researched and recognised by sociologists (and psychologists) as constituting important elements of socio-psychological wellbeing since at least Jahoda *et al.* (1933), and later Warr (1987). More recently, the impact of flexible work patterns on such wellbeing has been graphically described in Sennet (1999). There is also an abundance of anecdotal evidence pointing to the demeaning and mundane nature of many assignments, captured in the derogatory English phrase, 'just a temp,' which focuses on the feeling of 'replaceability'.⁷¹

This social precariousness and lack of a feeling of belonging is likely to be greater in agency work than in almost any other form of employment, since it entails, almost by definition, a constant change of workplace. It may, however, be very difficult to quantify the wider socio-psychological impact of this 'social vacuum', and it may primarily express itself outside the workplace. (Indeed, there is little evidence of this issue in the national reports, although Isaksson and Bellaagh, 1999, present some Swedish evidence of the difficulties experienced by agency workers through the fragmentation of their working life into various tasks performed in different places of work.) However, other specific features of agency work may be more easily established empirically and may be more closely related to the workplace. These are taken up in the next section.

The empirical evidence on the duration of assignments shows that they are generally very short. In France the average assignment lasts for roughly two weeks. In the TAW-intensive motor manufacturing industry, the average is four weeks. In Germany, two-thirds of assignments are for less than three months. In both these countries there are legal restrictions on the duration of assignments. In Austria, which has no time restrictions, assignments are of appreciably longer duration, as Table 11 illustrates.

It is striking that one-fifth of all assignments last for more than a year. Among white-collar workers (who are in the minority), this is the case with one in three assignments. Table 12 shows that assignment duration is shortest in industry, commerce and tourism, and is relatively longer in transport, telecommunications and financial services.

Table 11 Duration of assignments in Austria (2000) – blue and white-collar workers

Period	Total	Blue-collar workers	White-collar workers
Up to 1 month	25.3%	27.5%	14.9%
> 1 to 3 months	21.6%	23.0%	15.1%
> 3 to 6 months	19.6%	20.0%	17.6%
> 6 to 12 months	14.3%	13.9%	16.2%
> 12 months	19.2%	15.6%	36.2%
Total	100%	100%	100%
N	30,120	24,912	5,207

Source: Official national sources as quoted in national report

⁷¹ Some of this evidence is gathered in Henson (1996) in the United States.

Table 12 Length of hiring period by economic sector of the user establishment in Austria, 2000

	< 1 M	1-3 M	3-6 M	6-12 M	> 12 M	Total
Industry	30.7	24.4	19.9	11.5	13.5	100%
Trade, crafts, services	21.3	20.2	21.2	15.5	21.7	100%
Commerce	33.2	22.2	14.9	16.0	13.7	100%
Transport, traffic, telecomms.	21.8	16.9	18.6	14.0	28.6	100%
Banking, insurance	23.8	15.7	15.6	19.2	26.2	100%
Tourism, leisure	37.8	40.2	9.8	4.7	7.4	100%
Agriculture, forestry	0.0	50.0	0.0	50.0	0.0	100%
Other	21.1	20.5	12.0	15.7	30.6	100%
Total	25.3	21.6	19.6	14.3	19.2	100%

Source: Official national sources as quoted in national report

The figures in Table 12 appear to suggest that agency workers change workplace frequently. Even in Austria, where assignments are relatively long, 25% are for a month or less. This suggests that if an agency worker were to work all year, he/she might change workplace at least 12 times. However, continuous (year-round) employment is not typical in many countries. In Belgium, when asked: 'How many assignments did you average in 1999?'⁷² 50% of respondents reported only one. Another Belgian survey showed that over a three-year period (from January 1995 to December 1997), 20% of TWA workers were unemployed for over a year (accrued periods).

Standards of working conditions

Apart from the 'social vacuum' mentioned in the previous section, the feature that is most specific to agency work is the dual nature of the employment relationship. For every assignment there are two employers (or rather two firms to which the worker surrenders authority), two sets of co-workers and organisational cultures, and possibly two trade unions. This may make any regulation less transparent, more complicated and more open to abuse. This will be the case in particular where a 'voice' – for example, social dialogue – is important to the observation and supervision of the regulatory issues. These problems are likely to be compounded when, in addition to this duality, assignments are of short duration. Indeed, according to the Third European Survey on Working Conditions (Paoli and Merllié, 2001) agency workers, when compared with those with any other form of employment contract, are the least satisfied with working conditions

Health and safety

Nowhere does the duality of the employment relationship combine with the short duration of assignment in such a potentially problematic fashion as where issues of workplace health and safety are concerned. In most Member States, there is some form of dual employer responsibility for these matters.

While in principle there would appear to be a rationale for some form of dual responsibility between the agency and user firm, it is obvious that there is potential here not only for a lack of clarity and possible assumptions by either party that a specific matter will be dealt with by the other, but also for abuse. Moreover, the successful pursuit of health and safety in the workplace requires much more than just legislation. Indeed, it could be argued that H&S issues are best addressed by framework legislation that is backed up by a commitment and organisation (with suitable institutional arrangements) in the workplace, to ensure that the legislation is made

⁷² 'Assignment' here is taken to mean a continuous period of TAW carried out for a specific user. A succession of TAW contracts, e.g. weekly contracts, can in fact correspond to one specific assignment.

relevant to the particular place of work, and – crucially – to ensure that the rules are observed. How then do agency workers fit into this model of efficient health and safety policy implementation?

Firstly, it is conceivable that at local level both management and unions may be less concerned for the welfare of agency workers, who do not belong to the firm proper and who may not be members of the same trade union as other workers (or of any trade union). Furthermore, the pressures within the informal social structures of the workplace may not be conducive to supporting the interests of agency workers.

Legal regulation of health and safety

Directive 91/383/EEC regulates health and safety for workers on limited duration contracts or employed by a temporary work agency in the European Union.⁷³ The main content of the Directive may be summarised as follows:

1. The purpose of the Directive is to prohibit unequal treatment and ensure for the above workers the same level of protection as regards health and safety as is given to other workers.
2. Before temporary agency workers take up any activity, they should be informed by the user establishment of the risks they may face.
3. Each worker should receive sufficient training appropriate to the particular characteristics of the job, taking into account his or her qualifications and experience.
4. Those responsible for health and safety matters shall be informed of the assignment of agency workers to their establishment.
5. Before the assignment, the user firm shall inform the TWA of the occupational qualifications required and the specific features of the job. The TWA shall bring all these facts to the attention of the worker concerned.
6. The user firm is responsible, for the duration of the assignment, for the conditions governing the performance of the work as regards safety, hygiene and health.

It would appear that the Member States have introduced implementing legislation covering most of these points, all stipulating equal treatment for agency workers, as in (1) above. Several countries – Denmark, France, Greece, Ireland, Italy, the Netherlands, Portugal and Sweden – have *not* implemented (4) above (on informing those responsible for health and safety that temporary agency workers have been hired). Sweden has made no provision to transpose point (5) nor Ireland point (6) into national legislation.⁷⁴

There appear to be good reasons why primary responsibility for health and safety should lie with the user company, and indeed, evidence in the national reports suggests that this is generally the case. The user firm will have much greater knowledge than the TWA of the dangers or risks at a particular workplace, and as indicated above, workplace health and safety requires considerable effort from the parties involved, for example as regards self-inspection and so on. The TWA cannot be expected to implement effective control at the user firm. However, if responsibility is exclusively at the user firm there are three potential problems. First, the user firm may not adopt the same

⁷³ The Directive defines temporary agency work as in this report (see Chapter 1)

⁷⁴ This information is based on the *Report on the Implementation of Directive 91/383/EEC supplementing the measures to encourage improvements in the safety and health at work of workers with a fixed-duration employment relationship or a temporary employment relationship* (The European Commission, Employment and Social Affairs, Unit EMPL/D.2)

obligation or responsibility for TWA personnel as for other workers. Trade unions could play a very important role here. Second, parties at the user firm are likely to have little information on the TWA worker's previous experience as regards the health and safety requirements of the work. However, the question is, of course, whether the TWA, which has not followed the performance of the worker on previous assignments, has any better information? Third, health and safety requires training. What does the user firm know about an agency worker's training, and what does the agency know about the particular form of training required for a particular user firm? How these issues can be resolved is far from obvious, and some problems as regards health and safety in agency work can be expected.

The least detailed specific health and safety legislation for agency workers is found in the Scandinavian countries. In Sweden, the regulation follows the general rule that ultimate responsibility for the working environment (health and safety) lies with the employer, i.e. the temporary work agency. The only legal response to agency work as regards health and safety was a minor addition to the Work Environment Law, stating: 'The person in control of the workplace shall ensure that the workplace has equipment to ensure that the person who works there, even if not an employee, shall not be exposed to the risk of ill-health or accidents.' There is no evidence on working conditions for agency workers in Sweden, apart from the results of a state inspection in 2000, which generally found them to be acceptable. If this is the case, then it obviously shows that detailed specific legislation for agency workers may not be necessary if there is suitable general legislation, above all where there is significant worker representation in the workplace to ensure decent conditions.⁷⁵ In Finland, the law is more interventionist, and the Act on Occupational Safety considers both the temporary agency and the user firm to be employers of the temporary agency worker. The user firm is obliged to inform the TWA as regards professional competence requirements and any special features of the work, and also to inform the agency worker about the risks and safety issues involved.

In the UK, the unclear employment status of agency workers makes the issue of employer responsibility somewhat problematic. The national report finds that in cases of dispute, the lack of clear lines of responsibility makes it difficult for temporary workers to achieve redress, since when an accident occurs, both agency and hiring firm may refuse liability. Impending UK legislation intends to address this problem by providing clear standards and accountability.

In Austria, Belgium, France, Germany, the Netherlands, Spain, and Italy, the dual responsibility problem is regulated in some detail. Generally, the day-to-day issues are the responsibility of the user firm, while the TWA is required to ensure that relevant health and safety information is given to the worker, and in some cases to provide training. In Germany, greater responsibility is placed on the TWA, which is required to monitor workplaces in user companies and inform workers of risks. Similar monitoring is required in Spain, where, in addition, TAW is prohibited for particularly dangerous work. In Belgium, there is a bipartite organisation (the TAW Industrial Safety Centre) dedicated to these issues. According to the national reports, in Ireland, Portugal and Luxembourg, health and safety issues are the sole responsibility of the user firm.

Despite the EU directive, there is still evidence in the Third European Survey on Working Conditions (Paoli and Merllié, 2001) that agency workers are the least likely of all workers to be informed about the risks involved in using materials, products and instruments.

⁷⁵ Sweden has the highest rate of trade union membership in the European Union, and collective agreements cover practically the entire labour market.

Health and safety conditions

Some of the national reports provide little hard evidence on this matter, but those that have, indicate that agency workers are exposed to more serious health and safety risks than other workers. The best information is from France, Belgium and the Netherlands.

Table 13 shows that in Belgium, blue-collar agency workers have significantly higher accident rates, and that accidents are more serious than for other workers. For white-collar workers, the relative differential is slightly lower, and there is little difference as regards the seriousness of the accidents. It is probable that the greater problems experienced by blue-collar workers are largely due to the nature of the job rather than the form of employment.

Table 13 Accidents at work in Belgium: temporary agency workers (1999) and all workers (1998), white and blue-collar employment (index numbers)

	Manual workers		White-collar workers	
	All	TAWs	All	TAWs
Rate of frequency	63	127	9	15.06
Level of seriousness	1.4	2.43	0.24	0.27
Total level of seriousness	2.75	6.1	0.55	0.69

Source: Official national sources as quoted in national report

In France, over half of temporary agency workers are exposed to manual handling of weights, compared to 41% of workers on limited duration contracts and 37% on open-ended contracts. 38% of agency workers are exposed to this for over 20 hours per week, compared to 21% for limited duration contracts and 18% for open-ended contracts. Only 57% of agency workers have a regular work rhythm compared with 68% of those on fixed-term contracts in the private sector and 72% of other private sector employees. Moreover, figures show that temporary agency workers suffer more occupational accidents than workers in general. The index for the rate of accidents among temporary placement workers in 1994 was 610, compared with 364 for workers on fixed-term contracts and 194 for workers as a whole. Finally, an INSEE employment survey for 1998-1999 confirms these results and shows that temporary agency workers have poorer working conditions than any other workers. The French national report is aware that the statistical association may be due to either specific features of agency work or to other characteristics of the job or workers, and concludes that both factors contribute.

Appreciably less convincing evidence of poor working conditions is found in the UK and the Netherlands, with the UK report providing little indication that such conditions exist for agency workers any more than for workers with any other type of employment contract. Labour Force Survey data show only a slightly higher accident rate for temporary agency workers compared to those on open-ended contracts. However, state inspections have found that both user firms and TWAs provide inadequate health and safety training.

In most other Member States there is no research or quantitative data to shed light on this issue, but there is considerable concern on the part of the unions, and some special inspections from the national occupational safety authorities. In Portugal, the state inspection body (the IGT) identified problems as regards working conditions and stress, due in particular to the excessive length of the

working day. In Italy, in the 10 interviews with agency workers carried out by the Italian national expert, mention is made of inadequate or non-existent information and training in occupational safety. In Spain, the trade unions claim that agency workers have the worst of all working conditions and that accidents are commonplace. TWA employers strongly refute these claims.

Since 1998 Germany has adopted the higher risk tariff for agency work of the *Berufsgenossenschaft* which assesses the risk of accidents. There is very little evidence in Austria, but the national report refers to research emphasising that the constant change makes the integration of agency workers into a new company difficult, and that the problems are often compounded by companies' attempts to keep such workers apart from regular staff. Research points to the stress that results, as well as to the higher risk of accidents faced by workers in the early stages of a new job.

The conclusion so far is that there are many indications that agency workers *do* experience poor working conditions, because of the precariousness of their employment contract; the dual responsibility for health and safety between the agency and the user firm; and the constant change of workplace. However, reliable basic statistical information is very sparse, and specific appropriate research is almost non-existent. In the four countries for which there is reasonable data, France and Belgium testify to agency workers experiencing significantly poorer working conditions than workers with any other form of employment contract, while in the UK and the Netherlands, smaller differences are found.

Erosion of working standards

Apart altogether from the fact that TAW suffers from intrinsic problems (e.g. the dual employer responsibility and the short duration of assignments) that may result in poorer working conditions for workers, it may also provide scope for deliberate abuse and the erosion of existing working conditions, and indeed, may be used specifically to undermine standards at the workplace. This may have consequences not only for the agency worker, but also for more permanent staff, and in this regard it is probably the most important issue as regards working conditions.

This erosion of working conditions may be due either to the legal circumvention of standards or to illegal practices. Legal circumvention is possible because the user firm and the agency worker do not generally have an employment contract, and thus the rules governing their relationship do not have to be in accordance with the regulation in law or with collective agreements between the firm and its employees. The problem of the non-application of employment rights to those who are not formally employed but who are in a situation akin to dependent employees has recently been the subject of labour law disputes in several Member States. In the UK, it has led to the legislator conferring labour law rights not just on 'employees', but on the broader category of 'workers'.⁷⁶ An important category in this context is the one termed 'dependent self employed' or 'pseudo self employed'. The issue is one not only of employment rights but also of tax avoidance. Pseudo self-employment (notably among truck drivers) has been under discussion in Germany in particular. It involves the use of a commercial contract to avoid paying social security contributions and taxes, while a *de facto* relationship of authority is maintained (Dietrich, 1999).⁷⁷ The parallels with agency work are obvious.

Regarding illegal practices, it is possible that the intrinsic 'fuzziness' of agency work, along with recent and perhaps incompletely developed labour law and collective agreements, abet

⁷⁶ As already noted in Chapter 2, this has benefited temporary agency workers.

⁷⁷ This is referred to in Schmid and Storrie (2002).

opportunistic employers in breaking the law. Moreover, it should be noted that until recently agency work was either legally prohibited or severely restricted in many Member States. That an activity is illegal, of course, does not mean that it does not exist, and one may suppose that some of the 'shady operators' who previously ran the sector are still in business. Indeed, in some of the national reports there is some suggestion of conflict between different temporary work agencies, with some – often the large, well-established firms – welcoming further legislation in order to drive out disreputable elements.

In Portugal the state Labour Inspectorate considers that lack of transparency has benefited the temporary work agencies, and that their managements show no sign of social concern or the minimum respect for the rules of the market or fair competition. Moreover, 'many companies using temporary workers have been exploiting the precarious nature of the work relationship ... in relation to their own workers.' As an example, an inspection conducted between October 1998 and April 1999 (which monitored around 2,000 temporary workers) identified several kinds of irregularities and led to the application of sanctions to the firms. These included high fines, coercive integration of 278 workers into the user firms' formal workforces and the obligation to pay an accumulated debt of almost 1,5 million euro in wages and social contributions.

In France the national report states that 'everyone knows ... and the Labour Inspectorate is aware' that it is easy to circumvent the limitations on assignment duration. The UK national report refers to trade union sources that claim '... clear evidence of considerable abuse and malpractice.' It cites avoidance of statutory holiday pay and non-payment of social security contributions as examples. The German report mentions abuse in the regulation of working time, holiday pay and sick pay, and refers in particular to some agencies bypassing their obligation to pay wages during 'unproductive periods' by providing such wage substitution on the basis of only 35 hours per week when workers may have been working longer hours. A postal campaign by Austrian trade unions to inform temporary agency workers of their employment rights has led to a large number of court cases, mainly concerning the payment of wages when not hired out.

Good working conditions

While the general perception (confirmed by most of the evidence in the national reports) is that working conditions are generally poorer in agency work, this is by no means necessarily the case. Moreover, while most agency workers do not express a preference for agency work and do it only because of a lack of alternatives, some choose it because they prefer it.⁷⁸ There are four possible reasons for this. First, there may be a trade-off between job security and wages. The UK report finds evidence of this for men, while the French report also mentions a wage benefit. It would appear that this is the case mainly at the upper end of the wage scale. The second reason is the scope for the worker to acquire a broad range of experiences and networks (see Chapter 5). The third positive aspect of agency work is that it may provide desired working-time flexibility. The Danish report cites cases of nurses who have a part-time job in the public sector and use agency work as a source of optional work. Fourthly, while in the discussion on the erosion of working standards above it was assumed that the circumvention of the collective agreement or the firm's internal wage structure leads to lower wages and perhaps poorer conditions of employment, it is feasible (and indeed, there is some evidence to suggest) that the opposite may sometimes be the case. In Chapter 5, we assumed that the use of TAW was a decision freely taken by the user firm because of its preference for this form of employment. However, the firm may also use agency workers because

⁷⁸ The aversion to agency work is primarily phrased in terms of job insecurity, and is well documented in practically every national report.

it is not able to attract labour at the going wage. There is, for example, some evidence from Denmark and Sweden that the higher wages and good working conditions of agency workers in some occupations in the public sector (e.g. nursing) are due to labour shortages,⁷⁹ which can only be met by paying wages in excess of the existing in-house wage structure.⁸⁰

While the Third European Survey on Working Conditions (Paoli and Merllié, 2001) generally points to poor working conditions for agency workers, they are the least likely of all workers to consider that their health is at risk or to report health problems.

Pay

Despite the fact that several Member States have legislated on 'equal wages for equal work' (see Chapter 2), the factors behind the supposition that agency workers may have poor working conditions may also lead in practice to their being paid less than similar workers in the user firm. In particular, it is apparent that agency work may be used by employers in user firms to circumvent the collective agreement or the going wage rate. Moreover, a significant share of remuneration is paid according to seniority, and it is unlikely and indeed perhaps inappropriate that agency workers should receive these seniority payments.

The surveys of user firms' motives for hiring agency workers (CIETT, 2000 – see Chapter 5, Table 7) claimed to show that cost cutting was only a very minor consideration. Lower wages for agency workers does not necessarily imply lower labour costs for the user firm, as the TWA charges a fee for its services (the German report mentions a mark-up of 10%-15%).

However, there is some evidence in the national reports to suggest that cost cutting *is* an important motive. The **Spanish** national report claims that up until 1999, low wages was a major incentive for the user firm. With the stricter linking of agency wages to those in the user firm in the 1999 legislation, sector estimates testify to a 20% increase in wages.⁸¹ It was pointed out in Chapter 4 that the first months of 2000 showed a decline in agency work in Spain.

In **Portugal**, the state inspection body found considerable evidence of salaries below those defined by law, collective work agreements or practice in the user company, as well as non-payment of holiday wages. However, it also testified to a marked increase in wages (17%) between 1995 and 1998.

According to research in **France**, temporary agency workers in motor/motor components manufacturing are better trained than permanent staff and are multiskilled, but they are paid the minimum wage. There were also examples of higher pay for more skilled agency workers, interpreted by the French report as a premium for the precariousness of the employment.

The **German** national report gives clear evidence of low pay, and cites cases where wage rates were on average 30% below comparable user firm rates.⁸² At the bottom end of the market, hourly wages as low as 8DM are not rare. The VW collective agreement explicitly awarded wages 10% lower than

79 Storrie (2001b) shows that perhaps the most serious labour shortage in Sweden at the turn of the century has been for health workers generally and nurses in particular.

80 Thus, not only from a sociological perspective but also from a theoretical economic perspective, one might view the agency worker as the 'marginal worker'!

81 Note, however, that these are only estimates and that they come from the TWA sector itself.

82 This is exclusive of seniority payments.

those of the user firm. There are many examples of very low pay (7.5DM) and different TAW workers being paid different rates.

In **Austria**, the law states that the agency worker should be paid according to the collective agreement applicable at the user firm. However, the Austrian report notes that the law does not contain clear statements about surcharges, bonuses, additional pay and the like. Moreover, all the available studies highlight the problematic income situation of temporary agency workers, and the negative effects on wage and salary levels within the company. Research has found that for similar jobs, the difference between the salaries defined by the collective agreement and the actual salaries paid within the company frequently amounts to 30%. Moreover, temporary agency workers hardly ever get company bonuses or social benefits.

In the **UK**, the national report sees wages to be 'the biggest area of complaint for temporary agency workers'. In terms of general pay levels (which are not adjusted for hours worked), the average weekly income of full-time agency workers in 1999 was 68% of the average weekly income of all employees. This is considerably higher than pay for casual or seasonal work. Average pay for full-timers on fixed-term contracts, on the other hand, is significantly higher, at 89% of general average pay. Since 1995 there has been a clear change: the average incomes of agency workers have increased (from 58%). In **Belgium** also, pay is the major matter of complaint to the official arbitrator. These complaints are related to non-payment for public holidays during the assignment; and delays and non-payment of the guaranteed payment in case of illness. The **Italian** report cites pay as the major complaint from the 10 interviewed agency workers. The most problematic issue was keeping track of the complicated remuneration schemes.

In the **Netherlands**, according to the 1999 legislation, temporary agency workers should in principle earn the same pay as workers in the user enterprise. However, as outlined in Chapter 2, in most cases wages are determined by the TWA sector's collective agreements. Pay levels are based on the average of 50 other collective agreements. This means that in practice the wages in the user firms and TWA firms will not necessarily be equal for the same work. For pay purposes, the agreement further stipulates two groups of workers. The first includes school-leavers, holiday workers, persons re-entering the labour market and the long-term unemployed. Workers in this group earn a low starting salary. All other employees earn a higher salary. However, one may remain for only a maximum of twelve months in the first group. In **Denmark**, also, collective agreements attempt to introduce some form of seniority pay amenable to the circumstances of agency work by counting seniority in hours.

It is difficult to firmly ascertain the position as regards remuneration for agency workers, as there are so many aspects which cannot be analysed with the available data. Systematic data is lacking on issues such as employee pensions, sick pay, holiday pay and other fringe benefits awarded to more permanent staff. The national reports generally point to lower wages due to lower wages being contracted in the first place, wage agreements being abused and the non-receipt of various fringe benefits. However, there is also some evidence of higher-than-normal wages. This is found at the upper end of the pay and skills scale, and is often interpreted as a risk premium. Other examples of higher wages than those prevailing in the user firm are found in cases where skills are in short supply and the user firm is unable or unwilling to offer higher pay to the directly employed workforce. This is the case in the healthcare sector in Denmark and Sweden.

An obvious problem as regards agency work arises when total remuneration is related to years of employment at the user firm. This includes seniority pay and fringe benefits. On the one hand, as these payments are linked to years of service, it is hardly appropriate that agency workers on temporary assignments should be eligible for them. On the other, they constitute a significant share of take-home pay in many countries, which means that if agency workers are to receive equal treatment (and thus *not* receive seniority payments), they will, in practice, be paid significantly less than workers at the user firm. This may also lead to the undermining of pay structures for directly employed workers. One obvious solution is to introduce seniority pay as part of the wage structure at the agency. This has occurred to a certain extent in the Netherlands. However, pay that increases with seniority is not usually matched by increased worker productivity, and senior workers who receive seniority pay may not be profitable for the agency to send out on assignments, since the higher cost to the agency will not be able to attract a higher fee from the user. Economic theories of pay view seniority wages in terms of securing return on investment in human capital by encouraging effort and eliciting loyalty. Problems related to the long-term association of the agency worker with the agency were taken up in Chapter 5.

Conclusions and summary

While it has been argued that agency work can, in theory, offer potential advantages as regards job security when compared to other forms of flexible employment, in practice it appears to be even more insecure than work provided with a limited duration contract. This was shown to be the case from a review of the data on both contract duration and the volatility of the business cycle. Thus, the negative consequences associated with precarious employment generally can be expected to apply to agency workers also.

The two features of agency work which can be expected to lead to poor working conditions are the frequent change of workplace and the duality of employer responsibility. These may be particularly problematic as regards health and safety in the workplace. In most Member States, there is shared responsibility for health and safety. The agency generally has obligations as regards training and information on risk at the user firm. In Germany and Spain, the TWA is required, in addition, to monitor working conditions at the user firm. In Spain, France, Italy and Belgium, agency work is prohibited for particularly dangerous tasks.

There is much anecdotal evidence of poor working conditions in agency work, but much less hard evidence. None of the research referred to can differentiate between factors related to agency work *per se* (as a form of employment) and those related to the job or the worker. The basic statistics on working conditions show that in some countries agency work is associated with appreciably poorer working conditions (accidents and health hazards) than other forms of employment. This was the case in France and Belgium. Less difference is found in the UK and the Netherlands.

There is widespread evidence of circumvention of employment standards as regards pay and working time regulation, and some evidence of illegal abuse. This is particularly the case as regards pay, the major cause for complaint of agency workers. There are also some examples of better pay and working conditions in the health sector and at the upper end of the pay scale.

Despite the legal principle applying in several Member States of equal treatment for agency workers and workers in the user firm, there is very strong evidence of lower pay for similar work,

and some examples of extremely low pay. A major problem that has not been fully documented is the issue of remuneration *other* than wages, such as bonuses and social insurance. Seniority pay, which is an important element of pay in many Member States, is a very problematic issue. If agency workers do not benefit from such remuneration, they will receive appreciably less total income than comparable workers at the user firm; there is also the distinct possibility that this may undermine the granting of such provisions to directly employed workers. It may, on the other hand, be inappropriate for agency workers to receive seniority payments, which are, of course, rewards for long service at the user firm. There is some evidence of the limited introduction of seniority pay for agency workers through the agency.

The role of temporary agency work in labour market integration

In Chapter 5 it was argued that agency work may facilitate the search for a job, and may provide an excellent opportunity for the worker to acquire a broad range of experience and contacts. Agency work may thus be a means of integrating new entrants to the labour market into regular employment. In this chapter we examine the limited evidence on this matter. Moreover, the labour market authorities in several Member States have begun to use temporary work agencies as an instrument of active labour market policy.

A stepping stone towards regular employment?

Transition data, tracing the labour market status of agency workers before and after agency work, is very scarce in the EU Member States. A suitable starting point is the material published in CIETT (2000), based on 140 interviews with agency workers in each of Germany, France, the UK, the Netherlands and Spain. These countries account for 90% of all agency workers in the European Union and could thus be seen as reasonably representative. The data is summarised in Table 14. It denotes the labour market status of people who had worked as temporary agency workers during the first half of 1999 before and after their period of employment with the agency.

We note that the employment rate of these workers is higher *after* the period of agency work than it was before, increasing from 67% to 84%. It must be underlined that this information is not sufficient to conclude that agency work plays a positive role in labour market integration. In order to gauge whether it provides a stepping stone to the regular labour market, one must have some idea as regards the contrary situation – if there was no such stepping stone, would these people move directly into employment? At least to some extent, the answer must be yes. It has been shown, for example, in the national reports and elsewhere in this report, that a significant number of temporary assignments serve as probationary jobs (see Chapter 5, Table 7) and some of these vacancies would presumably have arisen and been filled at the user firm anyway. Moreover, since many in the survey population were previously students (and we know that the population is very young), we can assume that some would have found employment by other means.

Nevertheless, the data is informative in other respects. Agencies recruit mainly from among the employed. The majority of agency workers are thus not recruited from among those who have been unemployed or are otherwise out of the labour force, the category which in the present data accounted for 34% of recruitment. After the period of working with the agency, 19% of the total obtained direct employment at a user firm, while 12% had open-ended contracts. As a considerable amount of time had elapsed between the measurement periods, and as agency worker flows are rather volatile, we must presume that the data in Table 14 misses many transitions.

Similar data is presented in the Swedish national report. The population in this case was made up of people who had been employed with a TWA at some time during 1997, and register data is used to ascertain their main labour market status the previous and subsequent years. From Table 15 we note that more than 57% of those who worked in the TWA sector in 1997 were otherwise employed the year before. A third were engaged in temporary work during both 1996 and 1997. As with the CIETT (2000) data, the majority (89%) had had a job the year before working for an agency. Compared with that data, however, a larger proportion, at 32%, were employed with an agency, suggesting a longer duration of agency work in Sweden. Very few (just over 10%) had been unemployed or were otherwise out of the labour force.⁸³

⁸³ These figures can be compared with data from the Swedish TWA sector's representative organisation, SPUR, which claimed that 34% of agency workers joined a TWA from another job, 15% had been unemployed, and 27% had completed a period in education.

Table 14 Transition to and from agency work

Labour market status of those working for a TWA during the first half of 1999* (%)			
Immediately before agency work:		After agency work (May 2000):	
Self employed	4	Agency work	36
Open-ended contract	32	Open-ended contract with client	12
Fixed-term contract	12	Open-ended contract with other company	18
Agency worker	17	Temporary contract with client	7
Other form of employment	2	Temporary contract with other company	6
		Other flexible arrangement	1
Total employed	67	Unknown	4
		Total employed	84
Unemployed	10	Studying	8
Home-maker	4	Unemployed	5
At school	14	Retired	0
Other form of non-employment	6	Other	2
		Unknown	2
Total not employed	34		17
Total	100	Total	100

*Based on 140 interviews in each of Germany, France, the UK, the Netherlands and Spain.

Source: CIETT (2000)

Since roughly one-third were already employed in the TWA sector in 1996, roughly two-thirds were recruited in the intervening period. Fridén *et al.* (2000) also present flows for women and non-Swedish citizens. The pattern for these is very similar to that of the total group. However, foreigners were slightly more likely to have come to temporary work from being students or being unemployed. This has been interpreted to suggest that agency work may be a suitable means of integrating foreigners into the labour market, and commercial agencies have been used as an instrument of active labour market policy in Sweden.

Table 15 Labour market status in 1996 and 1998 of workers registered with a TWA in 1997 (Sweden)

Status	1996	1998
Employed with a TWA	31.7%	50.9%
Other employment	57.0%	44.8%
Education	3.5%	1.2%
Unemployed	7.9%	3.2%

Source: Fridén *et al.* (2000)

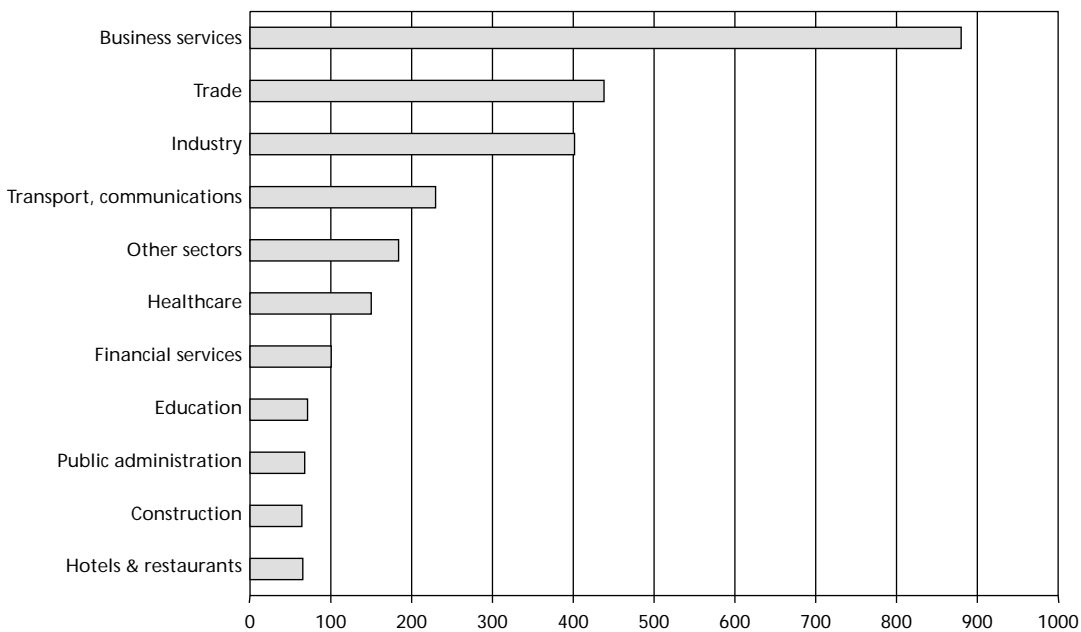
The flows out of the sector, from those employed in a TWA in 1997 to their labour market position in 1998, show that half remained in the sector the following year and more than 40% moved on to another job.

As with the CIETT (2000) data, perhaps the most striking feature of these results is that flows in and out of temporary agency work are largely to and from jobs in other firms. It is sometimes put forward that TWAs may serve as entry points to the labour market. If by this one means that TWAs recruit largely from among the unemployed and persons finishing their education, this does not

appear to be the case. One-fifth of the whole sample for the full three-year period had worked in TWAs for the three years. Job mobility is considerable, however, with the sector exhibiting very high turnover. However, as the flows out of TWAs are largely to other firms, agencies do act as a point of entry to other jobs, possibly at the client company.⁸⁴ Figure 1 shows that in Sweden the majority of flows to other jobs are in sectors related to typical agency work.

In Table 15, roughly 50% of the 1997 TWA employees had moved on to another job in 1998. Fridén *et al.* (2000) estimate a probit regression of the probability of moving to a new job compared with that of not doing so.⁸⁵ They find that being young, male and resident in Stockholm increased the probability of moving on to a new job. They found no effect for nationality, education level, size of the workplace and previous labour market history. An interesting result was that if the individual was employed in a TWA in 1996, this decreased the probability of moving to a new job in 1998, indicating some duration dependency.

Figure 1 Outflows from TWA employment to other sectors 1997-1998



Another issue of interest in terms of labour market flows is whether temporary agency work provides a path out of unemployment. Fridén *et al.* (2000) study a population of all of those who were unemployed for any period in 1997, and examine the factors that lay behind these individuals having a job in 1998. Some of those who experienced unemployment in 1997 also had a period of work at a TWA. It was found that experience of agency work does have a positive effect, but that work in any other type of firm had a much greater effect. Unfortunately, because of the likelihood of selection problems, one cannot interpret these results in terms of the influence of agency employment as regards moving out of unemployment.⁸⁶ The effect of TWA was slightly greater for foreign nationals.

84 Other information in Fridén *et al.* (2000) – a survey addressed to the TWA employer – indicates that two-thirds of those who leave the sector leave to work in a client company.

85 As most of the remainder stayed with the TWA, the model estimates the probability of moving to a new job compared with that of staying mainly in temporary agency work.

86 Moreover, the effects are very slight. In 1997, there were 470,000 persons who were unemployed at some time. Of these, 1,700 had also worked in a TWA. Half of these had another job in 1998. This corresponds to 0.2% of the total number employed.

Finally Fridén *et al.* (2000) compare the probability of two groups finding a job in 1998: those who had worked for a TWA for the whole of 1997, and those who had experienced unemployment during the (entire) same period. The probability of finding a job was found to be lower for TWA employees than it was for the unemployed.

Other national reports present more scattered information on transitions and integration. In the **UK**, data from the TWA sector claims that a quarter of agency workers eventually get a job at user companies. The Labour Force Survey provides some retrospective data that compares agency workers with those on fixed-term contracts and with all other employees (Table 16).

Table 16 Work status of agency workers, fixed-term workers and permanent employees in the UK one year previously: 1999

1999	% of agency staff	% of fixed-term staff	% of all employees
In paid job	64	73	86
Unemployed	7	6	2
Full-time student	9	14	4
Looking after family	2	3	1
Temporarily sick	1	1	0

Source: UK Labour Force Survey.

The LFS also shows (like CIETT, 2000) that nearly two-thirds of agency workers are recruited from among the employed. (However, the percentage is even higher for fixed term contracts and all employees.)

In **France**, a survey conducted by the TWA sector examined the situation of agency workers one year after their temporary assignments, in June 1999. Almost 40% were in salaried employment on a fixed-term or open-ended contract, and almost half of this percentage had been recruited by the organisation to which they had been assigned temporarily. In **Spain** several studies by the employer organisation, FEDETT, claim that 30% of hired-out employees finally find a permanent position in the user enterprises. The same figure is cited in **Germany** from sources within the sector. In Denmark, the same sources claim that one in four agency jobs leads to a permanent job.

In **Belgium** a survey conducted by a polling firm revealed that 36% of temporary agency workers had received an offer of employment from the user company in which they had worked as a 'temp'. A more recent survey found that although 41% of agency workers had found permanent employment at the end of their last assignment, only 23% of all of those questioned had found these jobs in the user companies in which their assignment had been based, and 18% had found work elsewhere. 59% of those interviewed had not found permanent employment at the end of their last assignment.

Temporary agencies as an instrument of active labour market policy

A striking feature of many of the national reports is the extent to which agency work is used as a policy tool for integrating certain groups into the labour market. These are groups that typically experience difficulty in this regard, e.g. non-residents, the long-term unemployed and older workers. This is an important phenomenon in Austria and Belgium but examples can also be found in France, Germany, Sweden and the Netherlands. It occurs either through the labour authorities

outsourcing the implementation of active labour market policy to private employment agencies or public bodies, or, more often, through non-governmental organisations (NGOs) operating on a non-profit basis (although almost always with public funding). The latter practice appears to be best developed in Austria and to a lesser extent in Germany; the former in Belgium.

Belgium

With explicit reference to claims regarding the positive role played by temporary work agencies in labour market integration, the government introduced legislation in August 2000 allowing indefinite assignments for workers classified as 'difficult to place'.⁸⁷ These were primarily the long-term unemployed – a major problem in Belgium – and those on minimum, subsistence-level wages or in receipt of social benefit. In return for employing these workers, their benefits are paid over to the TWA. The social partners have negotiated terms of remuneration for workers employed in this way for those periods during which they are not placed at the disposal of a user.

Austria⁸⁸

In line with the general tendency to use NGOs in active labour market policy in Austria, non profit-making temporary work agencies have also played an important role. According to the national report, these may generally be viewed as having being successful. They have substantially contributed to a more positive image of TWAs, since they indicate that agencies may be 'socially compatible'.

The primary goal of these organisations is to integrate unemployed persons into the labour force by offering them temporary work, and thus an opportunity to transfer into the regular workforce. A secondary goal is to cover costs. Usually, the organisation cooperates with the regional labour market service. The agencies receive subsidies for employing people from various 'problematic' groups, in particular the long-term unemployed, the elderly and the disabled.

The first such agency, ESPORA, was set up in Upper Austria by the Labour Market Board. It exclusively recruits the unemployed. About 60% of all employees successfully transfer into regular employment. An evaluation of this measure carried out in 1996 showed that even though the workers earned less as temporary employees than before they became unemployed, the period of unemployment was substantially shortened. After leaving ESPORA they were able to improve their income situation.

JONA was started in 1994 by the Episcopalian Foundation for Unemployed Persons (*Bischöfliche Arbeitslosenstiftung*), and exclusively places the unemployed, especially those who are threatened by long-term unemployment. Currently JONA employs about 50 people in various lines of work. This project also shows a high reintegration rate. 45% of the workers are able to transfer into the regular labour market.

One of the largest non-profit temporary work agencies is *Flexwork*, which was founded in 1996 as a limited company and works in close cooperation with the Labour Market Board in Vienna. Since starting in business in 1997, *Flexwork* has employed about 1,743 people; by the end of 2000, it had 332 employees. About 50% of the workers employed moved directly from *Flexwork* into the regular labour market, i.e. they became part of the staff of the user firm. About 50% belonged to the primary target group (long-term unemployed and/or older people). An evaluation of this measure

⁸⁷ The general regulation of agency work in Belgium sets very strict limits on the duration of assignments.

⁸⁸ The following paragraphs are essentially a long quote from the Austrian national report.

shows positive long-term effects in terms of both employment and income levels. About 52% of all the workers were able to move into other employment, and their income increased in the long term.

To encourage reintegration into the regular labour market, employment breaks are used to improve workers' skills. In 1999, 52 initiatives in training and qualifications (e.g. welding courses, EDP classes, motivation and communication training, preparation for applying for a fork-lift truck driver's licence) were undertaken to assist a total of 110 people. Twelve further such measures (initiatives of two weeks duration each) helped a total of 78 workers to find a job. Based on prior experience with the qualifications initiatives, the *Flexwerkstatt* ('Flexworkshop') was established in January 2000. It gives workers the opportunity to actively use employment breaks to look for a job in the regular labour market. The training activity focuses on 'non job-related' matters, such as assistance with job applications, presentation techniques, and negotiation and communication skills.

The *Trendwerk* association is a socioeconomic employment company. In cooperation with the Labour Market Service, it has been hiring out temporary agency workers on a non-profit basis since June 1999. In the district of Oberpullendorf, it focuses on men who have been unemployed for a long period of time or (older) men who are threatened by long-term unemployment. In the Southern Burgenland, most of the workers are women facing long-term unemployment and older unemployed people. In 1999, 109 people (91 men and 18 women) were working for *Trendwerk*, 40% of them over the age of 40. *Trendwerk* focuses on people in specific problematic situations who would not usually get a chance to prove their worth. During the first few months in the job, *Trendwerk* offers to mediate between employers and employees in case of possible conflict, thus establishing a foundation for the worker to be transferred to the regular staff.

Germany

In 1994 the government issued guidelines for the reintegration into the regular labour market of unemployed persons for whom work could not easily be found, by means of loans and subsidies to temporary employment agencies. Implemented between 1994 and 1996, the programme was aimed at the long-term unemployed, the 50+ age-group, severely disabled persons and rehabilitated former drug addicts, along with those who had interrupted their job or career for more than three years in order to care for children or others, and who were unemployed for half a year while seeking a job.

This programme resulted in 73 'non-profit temporary employment agencies', founded through social associations, employment agencies, local authorities and educational organisations, and led to an expansion of the area of operations of existing non-profit organisations. However, 14 commercial agencies were also included in the scheme, subject to their ensuring that the unemployed would account for at least one-fourth of the workers they took on as temps. The results were not very encouraging – only one in eight found a permanent job at the user company – and the programme was discontinued. However, some indirect sponsorships by Employment Offices still exist, enabling some of the agencies to continue to survive. They include funds from the European Social Fund and wage subsidies from the welfare office. Other regional initiatives, for example in Bavaria, claim appreciably better results. Finally the 'Initiative for Employment' is a joint initiative of 400 companies which aims to promote employment and particularly to fight long-term unemployment. TWAs such as *Randstad Germany* participate. These agencies collaborate by means of a network with Employment Offices and institutions for further education.

In **France**, there has been some cooperation between TWA companies and the public employment service since 1990. Three contracts have been signed, the objectives of which are to fill as many employment offers as possible as quickly as possible, and to provide support for people seeking employment or training by attempting to reduce the risks of exclusion.

Under the most recent agreement (1999-2003), two goals were central: to encourage temporary work placement companies to place their assignment offers with local employment agencies, and to commit the TWAs to providing a tailor-made, differentiated service for these temporary workers. The agreement also encouraged the agencies to develop national, local and regional partnerships, and to develop activities aimed at promoting the employment and re-employment of specific target groups, such as the disabled, young people in difficult situations, job-seekers registered as unemployed for over two years, and job-seekers over 50 years of age.

Some mention is made of cooperation between agencies and labour market authorities in the Scandinavia. This appears to be most developed in **Sweden**, where it has been used most notably to facilitate the integration of ethnic minorities.

In the **Netherlands** also, there have been several instances of temporary agency work being used as an instrument of active labour market policy. In the 1980s, a special tripartite agency, START, was established for this specific purpose under the supervision of employers, trade unions and the government. It functioned for some 15 years before recently being privatised and becoming a 'normal' agency. Trade union participation and commitment to this project greatly helped in overcoming the unions' own historical anti-agency attitudes.

Conclusions and summary

TWAs can obviously play a potential role in labour market integration. Agency work can provide excellent opportunities for the worker to acquire a broad range of experiences and contacts while earning a wage. The agency worker also has the opportunity to demonstrate his or her capabilities in realistic situations to a prospective employer at the user firm. User firms will have almost no prior information on the agency worker – including information which might have prejudiced them against directly employing such a person. Much discriminatory behaviour is often explained in terms of a rational screening of employees – so-called statistical discrimination. With agency work, the screening is performed by the agency. It may thus aid the integration of stigmatised groups such as the long-term unemployed, ethnic minorities and the elderly into the regular labour market. However, there is still no empirical research to substantiate this.

In order to determine empirically whether agency work is a 'stepping stone' to integration, we require transition data not only on agency workers, but also for another group of (otherwise similar) persons who did *not* experience agency work, who would thus represent the contrary case. Such data does not yet exist.⁸⁹ All that previous research shows is that around two-thirds of agency workers come to the agency from another job. Only a minority are recruited from among the unemployed or those who have been out of the labour force for other reasons. After leaving the agency, roughly 50% of agency workers find direct employment, and roughly 30% get a job at the user firm.

During the 1990s, temporary work agencies began to be used as a means of integrating some marginal groups into the labour force – groups such as the long-term unemployed, welfare

⁸⁹ The nearest we have is the Swedish data presented in some detail earlier in this chapter.

recipients, the elderly and ethnic minorities. Commercial agencies, non-profit (or non-governmental) organisations and public temporary agencies have been used for this purpose, often working in cooperation with each other, and always with some state financing. There has been no proper evaluation of these projects in terms of their efficiency as labour market policy measures. However, in some cases, the degree of integration appears to be quite impressive, for example in Austria, where non-profit organisations play a prominent role.

Despite the lack of evaluation, there are grounds to suppose that agencies may represent a useful tool in publicly financed labour market policy. The opportunity to earn a wage while being able to sample different jobs and employers and amass a wide range of experience may make agency work an attractive option for marginalised groups. It may also provide the opportunity for stigmatised job seekers to gain a foothold in a user firm – to prove their worth in realistic situations in firms where they might otherwise have been discriminated against.

It is not obvious why public employment services should outsource these activities to commercial agencies. One possible reason may be that workers employed by commercial agencies can avoid the stigma that may attach to state-run programmes. The private enterprise culture of commercial agencies may be more attractive to user firms than state-sponsored placement schemes. It is also apparent that public authorities have outsourced their most difficult employment 'issues' to agencies (the long-term unemployed in Belgium and ethnic minorities in Sweden). Desperate situations may suggest desperate solutions, but these initiatives have yet to be proved successful. Commercial agencies have an interest in becoming involved with the public authorities in active labour market policy, since it provides them with an opportunity to present the TWA sector as more socially acceptable.

Conclusions and policy options

8

Before drawing conclusions it must again be pointed out that the statistics on agency work are very limited. There is very limited research on agency work in most Member States, and what information there is often emanates solely from the TWA sector's own organisation or from the social partners. The development of better statistical sources and further research on temporary agency work should be a priority. An obvious first step at European level would be to introduce a question on agency work into the European labour force survey.

Our best estimate of the EU-wide figure for TAW counts agency workers at between 1.8 and 2.1 million, which corresponds to 1.2%-1.4% of the total number employed. In all Member States other than Greece, agency work grew very rapidly (between two and five-fold) during the 1990s. After a phase of deregulatory legislation, this rate of growth has decreased. Indeed, in the Netherlands – the most TAW-intensive country in the EU – the number of agency workers declined in the most recent year for which there is data. It is thus possible that levels have stabilised, and given the current economic downturn and the sector's sensitivity to the business cycle, a decline in agency work may soon be observed.

As regards a labour force profile, agency work is highly concentrated among the young, with the under-25s making up between 20% and 50% of all agency workers in the various Member States. There is evidence, however, that agency workers are getting older. With the exception of the three Scandinavian Member States, the majority of agency workers are men. Male dominance of the sector is most pronounced in Germany and Austria, even taking account of the gender distribution of all forms of employment. It is clear that the gender distribution of agency work can be largely explained by considering the sectors in which the two sexes tend to work. This also explains the over-representation of women in work undertaken with limited duration contracts. The question remains, however: why do employers in (largely male) industry use agency workers, and why do employers in (largely female) services use workers with limited duration contracts?

Comparing agency work with work on limited duration contracts can be useful, as they have a number of features in common and more is known about the latter. The comparison is also appropriate in that if agency work were not an option, in many cases the user firm would use limited duration contracts. This is reflected in the objective grounds on which it is legally permissible to assign agency workers to user firms, which are often precisely the same as those required for limited duration contracts.

As regards working conditions, while it was argued that in terms of job security, agency work can, in principle, offer advantages over other atypical employment contracts, in practice TAW appears to be even more insecure than (for example) limited duration contracts. This was shown to be the case with regard to both contract duration and the volatility over the business cycle. It can thus be expected that any negative consequences associated with precarious employment will apply to agency work also.

It was argued that the two features specific to agency work that are likely to lead to poor working conditions are the frequent change of workplace and the duality of employer responsibility. These characteristics of TAW make any matter requiring dialogue between employer and employee potentially difficult to deal with. Indeed, the national reports testify to problems in setting up institutions of social dialogue in the workplace for agency workers.

Nowhere do the difficulties of dual employer responsibility and rapid workplace turnover combine to such potentially problematic effect as in matters of health and safety in the workplace. These issues have been regulated by Directive 91/383/EEC, which aims to ensure equal treatment between temporary agency workers and workers at the user firm. The main thrust of the legislation is to place primary responsibility with the user firm, but to require the TWA to inform the worker of the risks specific to each assignment. The Directive does require that the worker be given sufficient training to deal with health and safety matters, but does *not* specify who is responsible for the provision of this training.⁹⁰ As was pointed out in Chapter 6, where the responsibility should lie is far from obvious. For example, what does the user firm know about an agency worker's previous training; and what does the agency know about the particular form of training required for a particular user firm? When one also considers the very short duration of a typical assignment, it is extremely unclear how these issues can be resolved, and some problems are likely as regards health and safety.

There is much anecdotal evidence of poor working conditions in agency work, but much less hard evidence. None of the research referred to in the national reports can differentiate between factors related to agency work *per se* (the contractual form) and those specific to the job or the worker. However, the descriptive statistics on working conditions show that in some countries, agency work is associated with appreciably poorer working conditions (accidents and health hazards) than other employment forms. This was the case in France and Belgium. Considerably less difference was found in the national reports in the UK and the Netherlands. The most detailed evidence is to be found in the Third European Survey on Working Conditions (Paoli and Merllié, 2001). Compared to all other forms of employment (meaning other types of contract, including limited duration contracts), temporary agency work has the worst record as regards a number of indicators on working conditions, including the provision of information to the worker on the risks associated with certain materials, products and instruments, and repetitive work.

If the indications from the descriptive statistics as regards a link between agency work and poor health and safety can be shown to be due to the contractual form *per se*, there is one obvious legislative strategy that could be adopted. Article 5 of Directive 91/383/EEC provides Member States with the option of prohibiting the use of agency workers for work which would be particularly dangerous, notably for work that requires special medical surveillance. It was pointed out that only four Member States have availed of this option.

There is some evidence (also of a descriptive nature) in the national reports of agency workers experiencing a lack of autonomy over tasks and working times. This was very clear in France. At the European level, the Third European Survey on Working Conditions (Paoli and Merllié, 2001) again showed agency workers as ranking lower than those with any other type of employment contract as regards these issues. The survey also testifies to agency workers having shorter working hours, more shiftwork, less time to do the job and lower overall satisfaction with working conditions than other workers. Similar results are found in some national reports (although these also indicate very *long* hours). Much of this evidence is based on state inspections. On a more positive note, the European survey finds that agency workers are less likely than others to view their health as being at risk or to report health problems; while in the national reports, there is some evidence of agency work providing working-time flexibility in accordance with worker preferences.

⁹⁰ In addition, it was noted in Chapter 6 that several Member States have not implemented the Article in the Directive that requires those responsible for health and safety at the user firm to be informed when agency workers have been hired.

A crucial difference between an agency worker and one employed with a limited duration contract is that the latter is employed by the user firm whereas the former is not. The relationship between the agency worker and the user firm is governed by a commercial contract (between the firm and the agency) rather than an employment contract. This opens up the possibility of legally circumventing standards of pay and working conditions as determined by collective agreement or norm.

Before summarising the negative consequences of this situation, we should first point out that it can in fact sometimes lead to *better* pay and conditions for the agency worker than those resulting from a collective agreement. Evidence from Denmark and Sweden found cases of higher pay for agency nurses. However, in Sweden at least, this was driven by labour shortages in the health sector. It appears that employers were not prepared to raise their entire wage structure to attract nurses in short supply, but they were able to attract the extra personnel needed by offering higher wages to these (marginal workers) alone. There are some examples in other Member States of agency workers benefiting from better pay and working conditions at the upper end of the pay scale.

However, there is widespread evidence – to the detriment of agency workers – of the circumvention of employment standards as regards pay and working-time regulation, as well as some evidence of illegal abuse. This is particularly the case with pay – the main cause for complaint of agency workers (although this may be true for all workers). Despite the legal principle in place in several Member States that agency workers must receive equal treatment with those in the user firm, there is evidence of lower pay for similar work and some examples of extremely low pay. A major problem, which could not be fully documented, is the issue of remuneration *other* than wages, such as bonuses and welfare benefits. Seniority pay – an important element of remuneration in many Member States – is a very problematic issue. If agency workers do not receive such remuneration they will benefit from appreciably less income than workers at the user firm. On the other hand, it may not be appropriate for agency workers to receive seniority-based payments and benefits, which are, after all, rewards for long service at the user firm. As seniority benefits are specific to the wage structure of a particular firm, it would appear that if agency workers are to derive benefit from seniority, it needs to be reflected in the wage structure of the agency itself. This is beginning to occur in the Netherlands.

It was underlined that there may be serious problems in financing training for agency workers. The skills required for agency work are obviously not ‘firm-specific’. According to human capital theory, firms will not be prepared to fully finance investment in non firm-specific human capital, knowing that they may not be able to reap a return on their investment, since the worker may quit. Moreover, agency workers may be highly predisposed to quitting, since they may be ‘poached’ by the user firm while on a temporary assignment. While evidence from the national reports shows that the employer does finance some training, it is rather limited, and the Third Survey on Working Conditions (Paoli and Merllié, 2001) shows that agency workers receive least training of all groups. In some EU countries (mainly the southern Member States) the agency is required by law to contribute to a training fund. The national reports testify to various problems with this system, including avoidance. Indeed, as it may be the user firm and not the agency that benefits from the agency’s investment, this is perhaps not surprising. In a few Member States, a ‘transfer fee’ may be paid when the worker leaves the agency to take up work in the user firm. The user can also pay

up-front for training, as is the case in the UK broadcasting sector, where training is financed by the sector's representative organisation. A viable system requires that the beneficiary of training should pay for it. If the user firm (or a sectoral organisation) does not contribute, there will be under-investment in training for agency workers.⁹¹

TWAs can obviously play a potential role in the integration or reintegration of workers into the regular labour market. Agency work may provide opportunities for the worker to acquire a broad range of experience and contacts while earning a wage. Furthermore, the agency worker also gets the opportunity to demonstrate his or her capabilities in realistic situations to prospective employers in user firms. The employer will have little prior information on the agency worker which might have prejudiced the firm against direct employment. Much behaviour that is actually discriminatory is often explained as a rational means of screening employees: so-called statistical discrimination. With agency work, the screening is carried out by the agency. This may help in integrating stigmatised groups such as the long-term unemployed, ethnic minorities and the elderly into the labour market

To determine empirically whether agency work is a 'stepping stone' to integration would require transition data, not only for agency workers, but also for another group of (otherwise similar) persons who did *not* experience agency work, in order to represent the contrary case. Such data does not yet exist. We can only say that the available data shows that around two-thirds of agency workers come to the agency from another job. Only a minority are recruited from among the unemployed or those otherwise out of the labour force. After leaving the agency, roughly 50% find direct employment; roughly 30% obtain a job in the user firm.

During the 1990s, temporary work agencies began to be used as an instrument of active labour market policy, in particular as a means of integrating some marginal groups such as the long-term unemployed, welfare recipients, the elderly and ethnic minorities into the labour force. Commercial agencies, non-profit organisations and public temporary agencies have been used for this purpose, often working in cooperation with each other, and always with some state funding. There has been no proper evaluation of these projects in terms of their efficiency as labour market policy measures.

Despite the lack of evaluation, there are grounds to suppose that agencies may represent a useful tool in publicly financed labour market policy. The opportunity to earn a wage while being able to sample different jobs and employers, and to gather a wide range of experiences, may make agency work an attractive option for marginalised groups. It may also provide the opportunity for stigmatised job seekers to gain a foothold in a user firm – to prove their worth in realistic situations in firms where they might otherwise have been discriminated against. This area should be prioritised for further research.

It is not obvious why public employment services should outsource these activities to commercial agencies. One possibility is that workers employed by commercial agencies may avoid the stigma that may be attached to state-run programmes. The private enterprise culture of commercial agencies may be more attractive to user firms than publicly administered schemes. It is apparent that the public authorities have outsourced their most difficult employment 'issues' to agencies: the long-term unemployed in Belgium and ethnic minorities in Sweden. Desperate situations may suggest desperate solutions, but these initiatives have yet to be proved successful. Commercial

⁹¹ It should also be noted that even where on-the-job training is apparently financed by the agency, it may in fact be partly financed by the workers themselves through lower wages.

agencies have an interest in becoming involved with the public authorities in active labour market policy, since it provides the TWA sector with an opportunity to present itself as more socially acceptable.

Finally, we conclude this report with some reflections on the legal regulation of temporary agency work as taken up in Chapter 2. This will be structured around the typologies as formulated in Chapter 3, the flexibility/security conflict, and the issue of equal treatment at the user firm.

In the continental countries (with the partial exceptions of Austria and the Netherlands), temporary agency work is seen as a distinct phenomenon, both as regards labour law (the assignments) and company law (licensing and monitoring of the agency). At the other extreme – as perhaps best represented by Sweden and Finland, and to a lesser extent the UK and Ireland – agency work is treated like any other form of business, and the employment contract is regulated no differently than any other form of employment. The Dutch model, where only after a period of time at the agency does the worker receive the protection that labour law may provide to other workers, falls somewhere between these two.

Thus, in the non-continental countries, the legal status and degree of employment protection afforded to agency workers is totally dependent on the general system of labour law. For example, the specific legal regulation of temporary agency workers is similar in the UK and Sweden, but because of the marked differences in general labour law, their legal status in the two countries is very different. Thus, it is obviously not possible to pronounce judgment on a particular legal model solely by examining the law specific to agency work. In the continental countries, with their detailed specific regulation of agency work, the impact of the general system of labour law is of somewhat lesser importance.

Perhaps the major issue in all forms of temporary work is the apparent conflict between flexibility for employers and employment security for workers. It was pointed out that agency work could resolve this conflict by providing the worker with an employment contract with the agency (open-ended or, if there are objective reasons to justify it, a limited duration contract) and flexible assignments at the user firm. Policy makers should pursue the potential of agency work to resolve this seemingly intractable issue of flexibility/security. A ‘positive sum’ solution would facilitate its resolution.⁹²

This report argues very strongly that agency work may offer considerable economic benefits to user firms, advantages to the wider economy and profits to agencies, *without the erosion or circumvention of employment standards in the user firm*. Some types of economic activity offer potential economies of both scale and scope. Moreover, the ‘risk-pooling’ function of the labour market intermediary may encourage employment creation. The use of TAW also provides user companies with more numerically flexible labour than limited duration contracts, and there are reasons to believe that the matching of worker to job may be particularly efficient in agency work, and may thus serve to reduce ‘frictional’ unemployment (i.e., the unemployment that occurs when unemployed job searchers are looking for a job). From this point of view, there may be much to gain from deregulating the sector along the lines of the Netherlands and Scandinavia. The removal of: barriers against operators entering the TWA industry; monitoring procedures; limitations on the scope of activities permitted to agencies; and above all, the legal requirement to provide objective

⁹² We must emphasise, however, that in practice agency employment appears at present to be even more precarious than that provided with a limited duration contract.

reasons for engaging a worker on a temporary basis would almost certainly be of benefit to the sector, the user firms and perhaps the entire economy.⁹³

The regulation of assignments (in terms of their duration and the objective reasons required to justify them) is currently the main means of regulating agency work in labour law, particularly in the continental countries. It is far from obvious that such regulation of the assignment is in the interests of the agency worker. As regards employment security, it is not regulation of the *assignment* that is the critical issue, but rather the security of the *employment contract*, which, in most Member States, is entered into by the worker with the temporary work agency. Regulation of the assignment appears primarily to serve to ensure that agency work does not become widespread as a category (and duration) of job at the user firm, and does not undermine standards there. It is primarily related to the interests of the workers in the user firm.⁹⁴ While perhaps obvious, this should be made explicit. If working conditions and pay are to be regulated to the benefit of agency workers, regulation of the assignment as described above is not the relevant issue.⁹⁵

However, this is certainly not to imply that the interests of the workers at the user firm are not valid. The use of agency workers clearly has the potential to undermine the firm's collective agreement, since the latter may be circumvented by means of a commercial contract between the agency and the firm. This explains why the main issue for the unions in the European social dialogue was equal treatment for agency workers and workers in the user firm. It may also explain why Swedish unions were able to accept radical statutory deregulation, as they believed (correctly, as it turned out) that they could maintain the integrity of the user firm's collective agreement.

If the maintenance of standards of pay and working conditions at the user firm is the major concern, this can be achieved in a number of ways. Legislation can limit the extent of agency work at the firm through the regulation of assignments, as is typically the case in the continental countries. If agency work does not become widespread, the poorer conditions of agency workers may not have an impact on the user firm. However, the growth rate of agency work (in France, for example) shows that it is becoming widespread: it has already reached a significant level in the motor manufacturing industry, for example.

The other option is to legislate directly on equal treatment, as has been done in several Member States. However, as pointed out above, it is far from obvious what equal treatment should entail, and the experience of several Member States is that legislation may not be effective. As has been noted several times in this report, the intrinsically 'fuzzy' and somewhat complicated nature of the *ménage à trois* that is agency work makes the day-to-day implementation of the law rather difficult. Clarity on what equal treatment is supposed to achieve, e.g. the maintenance of standards at the user firm, may be helpful. If it is possible to legislate directly and effectively on equal treatment, this should have most impact in Member States which lack other means to ensure it, such as Ireland and the UK.⁹⁶

93 The only possible argument against this is that it might encourage the 'shady operators' who undoubtedly do exist in the sector. On the other hand, these may soon be a relic of a time when agency work represented a legally 'grey' zone that attracted such operators, who may be pushed out as the sector attains similar legal standing to other sectors.

94 In political terms this is obvious, since workers in the user firm have considerably more political influence than agency workers. Indeed, the legislation in France (the archetypal continental country) is a codification of earlier collective agreements.

95 The exception is the prohibition on agency workers carrying out assignments that might be detrimental to their health. It should also be noted that a longer duration of assignment would serve to diminish the current rapid assignment turnover, which, as pointed out in Chapter 6, could be detrimental to agency workers.

96 In the UK, on the other hand, the recent tendency to use the broad term 'worker' as opposed to 'employee' in labour law (see Chapter 2) could also be seen as a means of attaining equal treatment.

Another means of achieving equal treatment is through the trade unions at the user firm. In Sweden, trade unions have the right to veto the placement of agency workers at the firm. In addition, practically the entire temporary agency sector is covered by collective agreements. However, the lack of such widespread collective agreement coverage makes this an unlikely option in most other Member States.

An ideal solution would be one that truly awarded equal treatment to all: *equal treatment for the temporary agency sector*, in terms of company law, to allow it to pursue profitable opportunities which may be of benefit not only to the sector itself, but also to user firms and the economy as a whole; and *equal treatment for agency workers in terms of employment status in labour law*, which provides the same level of employment protection as for other employees, i.e. an open-ended contract, or, if objective grounds exist, a contract of limited duration. More secure contracts, together with the increased employment levels from deregulation, could promote the opportunity for careers for agency workers and enable them to benefit from seniority rights. The final piece of this integrated ideal policy package is to ensure the integrity of standards at the user firm by providing *equal treatment as regards pay and working conditions for agency workers at the user firm*.

These three aspects of equal treatment cannot be implemented piecemeal. Of the three, it would appear that the most difficult to achieve, especially through legislation alone, is equal treatment as regards pay and working conditions.

Appendices

Appendix 1

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Appendix 2

Regulation of temporary assignments at the user firm

Austria

Grounds for temporary assignments:

The assignment may not involve replacing a worker on strike.

Involvement of the social partners at the user firm:

Works council to be informed and possibly consulted.

Information to be supplied to the temporary agency worker:

For each assignment, an 'employment sheet' states in detail the conditions under which the worker will work at the user firm.

Belgium

Sectors: TAW not allowed in construction or in some occupations in the graphics industry. Quotas applied in the textile industry. This is regulated by law and collective agreements.

Grounds: TAW may be used to replace a permanent worker, where a temporary increase in workload arises or in the case of exceptional work. The details suggest very specific conditions. It may *not* be used when there is industrial action at the user firm. According to the Royal Decree of 19 February 1997, certain types of work may not be carried out by temporary agency workers.

Duration: Depends on the reason for the assignment, but a maximum of six months with one possible extension.

Social partner involvement: Required in some situations. For example, where the assignment is due to a temporary increase in workload, 'prior agreement' (*sic*, national report) is required with the union delegation.

Information to the worker: Must be given a written 'labour contract' (ETUI, 2000) with detailed information on pay and working conditions at the user firm. (Collective bargaining within the TAW sector may relax these rules considerably.)

Denmark

No special conditions.

Social partner involvement: Not legally required, but according to ETUI (2000), the matter will '... usually be dealt with in the works council.' (As regulated by national collective agreements applying to the private sector.)

France

Grounds: TAW may be used to replace an absent worker, where a temporary increase in workload arises or for work that is temporary by nature. It may *not* be used when the job is connected with the normal and permanent activity of the user enterprise; for particularly dangerous work; to replace workers on strike; or following a dismissal for economic reasons. The latter prohibition, however, carries several exceptions.

Duration: A maximum of 18 months, renewable once only. According to the national report, however, it is common knowledge that this regulation can easily be circumvented.

Information to the worker: According to ETUI (2000), the contract of assignment has 'the nature of a labour contract'. It contains detailed written information on pay and working conditions.

Social partner involvement: If the hiring of the agency worker follows a dismissal for economic reasons, the works council must be informed.

Germany

Sectors: TAW is forbidden in the construction industry.⁹⁷

Grounds: TAW is inadmissible in firms experiencing industrial action.

Duration: Maximum one year, renewable after an interval equal to 25% of the initial period. The duration of the contract with the agency must be determined independently from the duration of the assignment.

Social partner involvement: User firm obliged to inform works council of its intention to hire agency workers. The proposal may be rejected, subject to possible appeal at the Labour Tribunal.

Ireland

While there is no special regulation of assignments, employer responsibility as regards the Unfair Dismissal Act lies with the user firm, which may, indeed, formally be the employer (see Chapter 2).

Italy⁹⁸

Grounds: TAW permitted for replacement of staff on leave and for tasks not forming part of the firm's normal production. May *not* be used for work that may significantly endanger the safety of the worker or third parties; to replace workers on strike; and in companies having dismissed similar workers for economic reasons up to a year previously. The main collective agreement applicable has set quotas designating the maximum percentage of agency workers allowed in a user firm. This was set at 8% but was later increased in some sectors.

Duration: There is general limitation in calendar time in law. However, if the worker is employed on a limited duration contract, the time-limits for such contracts are to be observed. An important collective agreement for firms which have been members of *Assointerim* since 1998 stipulates that a temporary agency worker may accept no more than four assignments at a particular firm, and may remain there for no longer than two years.

Information to the worker: The employment contract must provide detailed written information on pay and working conditions for each assignment.

Social partner involvement: The works council (RSU) must be informed.

⁹⁷ However, in 1994, the previous prohibition of 'loan workers' in construction was abolished.

⁹⁸ We note that previous bans on TAW in construction and agriculture and for low-skilled workers was abolished by the Finance Act from 2000.

Luxembourg

Grounds: TAW may be used for leave replacement; to bridge recruitment gaps (temporarily unfilled vacancies); for seasonal work; for work that is customarily or intrinsically of limited duration; in the case of a temporary increase in demand for labour; and to integrate job seekers.

Duration: Maximum of 12 months.

Information to the worker: Must be given detailed information on working conditions.

Social partner involvement: Works council must be informed.

The Netherlands

Social partner involvement: User firm must consult with works council.

Spain

Grounds: TAW may be used to replace absent workers; to provide a specific limited service; where there is a temporary increased demand for labour; and where there is an as yet unfilled vacancy (pending recruitment). Agency workers can *not* be used where workers at the user firm are on strike, to perform dangerous or unhealthy work and in firms that have recently dismissed similar workers for economic reasons.

Duration: No maximum duration in principle. However, ETUI (2000) states that assignments *may* be limited to three or six months where the worker is taken on because of increased demand for labour (to bridge a recruitment gap).

Information to the worker: Must be given information on pay and working conditions for each assignment.

Social partner involvement: Information must be provided to worker representatives.

Portugal

Grounds: To replace staff on leave; to bridge recruitment gaps; for seasonal work; in case of a temporary increase in demand for labour.

Duration: Six months maximum for seasonal work and to bridge recruitment gaps; 12 months in case of a temporary increase in demand for labour – this may be extended to 24 months.

Social partner involvement: Employee representatives have the right to request information.

Sweden

No special regulation of assignments.

Social partner involvement: According to the 'Codetermination Law', information must be given to the union at the user firm. This may result in negotiation, and in some circumstances, a trade union veto.

The UK

Grounds: TAW may not be used to replace a worker on strike.

Information to the worker: Must be given information on pay and working conditions for each assignment.

Appendix 3

Basic empirical information on temporary agency work

This appendix provides more detailed information on the basic empirical background presented in Chapter 4.

Numbers and growth in temporary agency work

Austria: According to CIETT (2000), there were 24,000 agency workers in Austria in 1999. Also cited in the national report, this figure emanates from reliable official sources. By 2000, the number had increased to 30,120, and the sector has almost quadrupled since 1992, when 7,864 persons were employed.

Table A1 Temporary agency work in Austria 1989-2000

Year	Agency workers
1989	7,955
1990	8,947
1991	8,178
1992	8,716
1993	7,864
1994	10,492
1995	12,503
1996	14,548
1997	17,980
1998	20,772
1999	24,277
2000	30,120

Source: Official national sources as quoted in national report.

Belgium: According to CIETT (2000), there were 62,000 agency workers in 1999. This is the same figure as was cited in the Belgium national report and comes from reliable official government sources. In 1992, the sector employed 30,468 persons; the figure has thus since doubled.

Denmark: According to CIETT (2000), there were 5,000 agency workers in 1999. The national report cites government sources as having counted 18,639 agency workers in 1998. It is not fully clear which is the most appropriate statistic, but since it is possible that the CIETT figure refers to full-time equivalents, we rely on the national report, which is based on tax return information from the TWAs. The report states that employment has increased five-fold since 1992.

Table A2 Average number of agency workers in Belgium 1988-1999

Year	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999
Number	25,703	30,026	31,466	30,652	30,468	27,942	34,816	41,247	44,127	51,426	59,563	62,661

Source: Official national sources as quoted in national report.

France: According to CIETT (2000), there were 623,000 agency workers in 1999. The national report cites the same figure using official government sources, and states that employment has grown very rapidly since the recession of the early 1990s.

Finland: According to CIETT (2000), there were 9,000 agency workers in 1999. The national report quotes similar figures, but points out that they refer to 'year-round full-time' employees. The Finnish Temporary Employers' Association (also cited in the national report), puts the number at 15,000. This is the figure used in this report. The earliest compatible data, from 1996, puts the number at 11,000.

Germany: According to CIETT (2000), there were 243,000 agency workers in 1999. The national report refers to official figures that state that by the end of 1999 there were 286,000 agency workers. We use the CIETT (2000) figure as the annual average. According to the national report, TAW as a percentage of dependent employment increased from 0.5% in 1992 to 1% in 1999.

Italy: According to CIETT (2000), there were 31,000 agency workers in 1999. While we take this to be the best available estimate, there are some indications that it may be an under-estimation. For example, the Foundation's Third European Survey on Working Conditions (Paoli and Merllié, 2001) estimates that Italy is the second most TAW-intensive country in the EU, representing 5.0% of all employees. In 1999, the employer organisation give a figure of about 250,000 agency workers, with 37.4 million hours of work. Italy currently exhibits the most rapid growth in agency work in the Member States, since, according to CIETT (2000), only 8,000 were employed in the sector in 1998.

Ireland: According to CIETT (2000), there were 9,000 agency workers in 1999. While we take this to be the best available figure, there are some indications that it may be an under-estimation. The Foundation's Third European Survey on Working Conditions (Paoli and Merllié, 2001) estimates that Ireland is the most TAW-intensive country in the EU, at 5.5% of all employees. The CIETT (2000) data does not testify to recent rapid growth, as the number of agency workers in 1998 was only 8,000. The Irish national report does not provide a figure.

Luxembourg: According to CIETT (2000), there were 4,000 agency workers in 1999. The national report, using the same sources, arrived at a figure of 3,904. From the same source there were 2,483 workers in 1995. A statistical problem in Luxembourg, however, is the relatively high number of foreign agency workers. We use the figure of 6,065 provided in the national report.

The Netherlands: According to CIETT (2000), there were 305,000 agency workers in 1999. The national report cites the same sources (from within the sector) but also refers to the Dutch Labour Force Survey (LFS) which counted 210,000 agency workers that year. One explanation for the discrepancy may be that the LFS included only those who worked for more than 12 hours a week, and we thus take the figure to be 305,000. According to the LFS, there were 102,000 agency workers in 1992; the sector has thus grown appreciably. However, it is notable that, according to the LFS, the number of agency workers declined slightly between 1998 and 1999 (also in terms of the share of employment). The CIETT statistics show no decline (rather an increase, from 294,000 to 305,000) but an appreciable decline in growth. The table below refers to LFS data. Both agency work and fixed-term contracts declined in 1999. However, in relative terms, the decline in agency work was greater.

Table A3 Temporary agency work and fixed-term contracts in the Netherlands

	1992	1993	1994	1995	1996	1997	1998	1999
Fixed-term contracts:								
Number	399	393	425	477	538	566	604	571
% of all employment	6.78	6.63	7.18	7.87	8.70	8.84	9.14	8.39
Temporary agency work:								
Number	102	98	114	149	187	207	223	210
% of all employment	1.73	1.65	1.93	2.46	3.02	3.23	3.37	3.09
Total employed	5,885	5,925	5,920	6,063	6,187	6,400	6,609	6,805

Source: CBS, Enquête beroepsbevolking⁹⁹

Portugal: According to CIETT (2000), there were 45,000 agency workers in 1999. The national report quoted official figures of roughly 10,000 less. However, as the national expert considers the official figures to be an under-estimation, the CIETT figures have been used here. According to official figures the number of agency workers has more than doubled since 1995. Unofficial estimates suggest very rapid growth in 2000.

Spain: According to CIETT (2000), there were 109,000 agency workers in 1999. We take this to be the best available figure. The figure given for 1998 was 90,000, thus testifying to modest recent growth. As measured by the number of contracts per year, however (national report), growth was very rapid during the mid-1990s. We estimate that the number employed in 1995 was 19,000;¹⁰⁰ it has thus since increased five-fold. Data for the first quarter of 2000 show a decline in the number of contracts, however.

Sweden: According to CIETT (2000), there were 32,000 agency workers in 1999. This is in line with statistics from the TWA sector's national organisation; there are no other sources. The sector hardly existed at all until legalisation was put in place in the early 1990s. Employment continues to grow rapidly, with 42,000 agency workers by the end of 2000.

The UK: As pointed out in Chapter 2, agency work is a rather unclear concept in the UK and estimating its extent is thus fraught with difficulties. The available estimates vary considerably. For 1999, CIETT (2000) puts at 976,000 the number of persons on the payroll of temporary work agencies, a figure which had risen to 1,128,993 by 2000. However, a special report commissioned by the government gave a figure of 557,000, while the Labour Force Survey (LFS) reported 254,000 temporary agency workers. It would appear that the LFS figure is more in line with our definition of agency work (i.e. where the worker is employed by the agency) and excludes the self-employed and other categories.¹⁰¹ If one were to apply the wider definition of agency work, as commonly used in the UK, there is no reason to doubt the figure of 557,000 from the specially commissioned government report. According to the LFS, the number of agency workers has more than tripled since 1992. Table A4 presents the growth of various forms of non-standard employment in the UK since 1992.

The table shows that agency work is by far the fastest-growing non-standard form of employment in the UK.

⁹⁹ Data kindly provided by Statistics Netherlands.

¹⁰⁰ Here we assume a constant ratio between the number of contracts and the average number of employees.

¹⁰¹ One advantage of LFS data over, for example, data emanating from the TWA sector (CIETT, etc), is that the LFS can identify multiple job-holders. This comment applies to all countries, of course.

Table A4 Growth of non-standard employment, by type, in the UK (% of total non-standard)*

Year	Fixed-term contract	Seasonal and casual	Agency temping	Unspecified	Total
1992	47	32	5	16	100
1993	48	30	7	16	100
1994	48	27	8	16	100
1995	49	25	9	15	100
1996	48	25	11	17	100
1997	49	26	12	15	100
1998	50	25	11	14	100
1999	51	27	12	10	100

*Not seasonally adjusted, spring term for each year, but winter quarter for 1997/1998

Source: Labour Market Trends, September 1997, LFS Quarterly Supplements, 1998/1999¹⁰²

The age of temporary agency workers

Table A5 presents age data, sorted by average age, from CIETT (2000). In the following table we complement this with information from the national reports.

Table A5 Age distribution of agency workers (%)

	Age groups						Average
	<25	25-35	35-45	45-55	55-65	65+	
Spain	51	34	11	4	1	1	27
Netherlands	54	27	12	5	2	0	27
France	35	25	25	10	6		29
Belgium	44	33	18	5	1	0	30
Italy	40	40	15	4	1	0	30
Sweden	10	75	15	5	0	0	31
Germany	37	37	17	7	2	0	32
UK	40	30	14	10	4	1	32
Finland	19	42	20	12	7	0	32
Austria	n/a	n/a	n/a	n/a	n/a	n/a	n/a
Luxembourg	n/a	n/a	n/a	n/a	n/a	n/a	n/a
Portugal	n/a	n/a	n/a	n/a	n/a	n/a	n/a
Denmark	n/a	n/a	n/a	n/a	n/a	n/a	n/a
Ireland	n/a	n/a	n/a	n/a	n/a	n/a	n/a

Source: CIETT (2000)

Table A5 suggests that the youngest agency workers are to be found in Spain and the Netherlands. **Dutch** data, from the TWA sector's representative organisation, is probably quite reliable and is presented in more detail in Table A6.¹⁰³

From Table A6 we observe that while Dutch agency workers are young, they were even younger previously. This is most apparent from considering the under-25s. At the beginning of the decade, 70% of agency workers were below that age; by 1999 this had fallen to 52%.

The **Spanish** data cannot be taken at face value, as they refer to the age of each hired worker, i.e. flow rather than stock data. As young people typically have jobs for a shorter length of time, the age of the stock of Spanish temporary agency workers is almost certainly higher than in the table above.¹⁰⁴

¹⁰² This table was taken from Cam, Purcell and Tailby (2002).

¹⁰³ This data is taken from Pot *et al.* (2002).

¹⁰⁴ It should be pointed out that for many countries, however – particularly those that rely on CIETT (2000) data – the distinction between flow and stock data may not be clear.

Table A6 Age distribution of agency workers in the Netherlands, 1991-1999

Age	1991	1993	1995	1996	1997	1998	1999
15-24 years	70	61	56	55	56	55	52
25-34 years	21	28	30	30	28	27	27
35-44 years	7	8	10	10	11	12	13
> 45 years	3	4	4	5	5	6	7
Total	100	100	100	100	100	100	100

Source: Algemene Bond Uitzendondernemingen (ABU)/Nederlands Economisch Instituut (NEI), 2000

From the national report, the generally reliable **French** data shows a shift in age structure in recent years towards a flatter distribution, similar to that of the Netherlands, with, above all, relatively fewer under-25s.

Table A7 Age distribution of agency workers in France, 1990 and 1999 (%)

Year	<25	25-29	30-34	35-49	50+
1990	38.6	21.2	13.6	23.3	4.2
1999	27.8	27.3	14.7	26.0	4.1

Source: Official national sources as quoted in national report.

The **Belgian** data from the national report, which is also probably of good quality, shows a similar age profile as appears from the CIETT (2000) data.

Table A8 Age distribution of agency workers in Belgium

Age	< 21	21-25	26-30	31-45	46+
Percentage	12.0%	33.9%	32.1%	26.9%	6.1%

Source: Official national sources as quoted in national report.

The **Swedish** national report refers to reliable research showing that 45% of agency employees were under 30 years of age. This suggests that the CIETT (2000) data reports too high an age.

According to the **German** national report, the majority of agency workers are under 30. Schmid and Storrie (2001) report that in 1998, 57% of men and 63% of women were under 35 (compared with 41% and 43% respectively in total employment).

The **UK** age data in the national report and in CIETT (2000) comes from different sources. The national report presents LFS data, which, as noted above, is more in line with the definition of agency work in this report. The LFS data reveals a significantly older profile than CIETT (2000).¹⁰⁵ In particular, there are significantly fewer younger workers. This suggests that agency workers in the UK may be the oldest in the EU. However, the share of young agency workers increased slightly in the 1990s.

The **Portuguese** national report found that 38% of agency workers were under 25. The corresponding figure for total employment was 18%. The age profile has remained more or less the same since 1995.

¹⁰⁵ This is probably due to the fact that the LFS data refer to stocks; CIETT (2000) to flows.

Table A9 Age distribution of agency and other workers in the UK, 1992-1999 (%)

Year	Under 25			25-49			50+		
	agency staff	fixed-term staff	all employees	agency staff	fixed-term staff	all employees	agency staff	fixed-term staff	all employees
1992	27	21	18	58	63	62	15	16	22
1995	29	22	16	55	63	63	15	14	19
1999	31	19	15	51	65	63	17	17	22

Source: LFS (from national report)

The most salient feature of agency workers' age was that they are generally much younger than other employees and often younger than those on fixed-term contracts. In the countries for which a series of data over time is available, i.e. the UK, the Netherlands and France, agency workers are seen to have become older in the 1990s; in particular, the under-25s age-group has declined. The Netherlands has the youngest TAW workforce and the UK probably the oldest.

Women in temporary agency work

As can be seen from Table A10, the majority of agency workers are men. As men also make up the majority in total employment, the figure for the female percentage of total employment is also presented (from the European Labour Force Survey).

Table A10 Estimates (two sources) of share of women in agency work and in total employment (%)

	CIETT (2000)	National Reports	Best Estimate	Women in total employment	Excess of women in agency work
Austria	16	16	16	44	-28
Belgium	41	40	40	42	-2
Denmark	70	n/a	70	46	24
Finland	78	Mainly women	78	48	30
France	30	Mainly men	30	45	-15
Germany	22	22	22	44	-22
Ireland	n/a	n/a	n/a	41	n/a
Italy	43	38	38	37	1
Luxembourg	25	25	25	39	-14
Netherlands	49	49	49	43	6
Portugal	50	40	40	45	-5
Spain	41	43	43	36	7
Sweden	80	60	60	48	12
The UK	55	30	30	45	-15

The figures in the national reports are similar to those in CIETT (2000). The exceptions are Sweden, Portugal and Austria where the former are probably preferable. It is only in the three Scandinavian countries (Finland, Sweden and Denmark) that more women than men work in agencies. However, women are over-represented in the Netherlands and Spain also, and to a slight extent in the UK. Women are significantly under-represented in Austria, France, Luxembourg and Germany. The ranking by country of the concentration of men in agency work is: Austria, Germany, Luxembourg, France, Italy, Belgium, Portugal, Spain, the UK, the Netherlands, Sweden, Denmark and Finland.

Lower female participation in employment in some countries may partly (but not completely) explain this ranking, and on balance, men are still clearly over-represented in agency work. This is in contrast to what is perhaps the nearest substitute for agency work, i.e. limited duration contracts (Table A11)

Table A11 Limited duration contracts as a percentage of total employment, men and women

	1995	1996	1997	1998	1999	2000
Men	8.5	8.8	9.2	9.6	10	10.2
Women	10.8	11	11.4	12	12.4	12.8

Source: European Labour Force Survey

As will be seen in the next section, the contrast between the relative concentrations of men and women in agency work and work undertaken with limited duration contracts can be explained mainly by the differences in the sectors in which the two sexes tend to work. This also explains the over-representation of women in work with limited duration contracts. The question remains, however: why do employers in (largely male) industry use agency work and employers in (largely female) services use limited duration work? We note, however, that the tendency is for agency work to replace limited duration contracts. The French report provides evidence of this in agriculture and services.

Several of the national reports indicate that the share of men in agency work has recently increased. The trend is very striking in the UK, where, according to the LFS, women constituted 70% of agency workers in 1992, while by 1999 that share had fallen to 47%.

Temporary agency work by sector and occupation

Table A12 presents data on the sectors in which user firms are located. Agency work is prohibited in construction in some countries, while in others it accounts for an appreciable share of agency employment. The table shows the share of agency workers in industry and construction. The remaining percentage is largely in services, as the primary sectors account for a very small share of agency work.

Taking the CIETT (2000) figures as the starting point, it would appear that the most industry-intensive agency work is to be found in Ireland and Italy; the least in Scandinavia and the UK. The national reports show that with the exception of the UK, agency work is less industry-intensive than previously estimated in CIETT (2000).

Ireland: There is no data on sector or occupation in the Irish national report, and the general problems with Irish data suggest that the CIETT (2000) data should be treated with caution. Indeed the national report states, "Traditionally, temporary agency workers in Ireland were secretarial workers. Current labour shortages in Ireland mean that firms in the software, retail and tourism sectors, and in the fishing/seafood and construction industries are using temporary agency workers. The health sector has seen a dramatic increase in the employment of agency nurses. According to a survey carried out for this study, the majority of licensed employment agencies in Ireland engaged in the placement of agency workers placed them across a broad spectrum of sectors.'

Table A12 Temporary agency work in industry and manufacturing (% of all agency work)

	IRL	I	B	F	A	D	P	E	L	NL	DK	S	UK	FI
Industry % of all emp (ELFS)	28.5	32.4	25.8	26.3	29.8	33.8	35.3	30.6	22	22.3	26.9	25	26	
Industry:														
CIETT (2000)	80	74	69	52	51	50	40	34	32	27	20	12	12	0.
national reports			65	44			26	35	23	28			22	
Construction:														
CIETT (2000)	0	1	0	18	7	0	10	6	34	4	3		6	n/a
national reports			0	14			17	5	30	5			4	
Both sectors:														
CIETT (2000)	80	75	69	70	58	50	50	40	66	31	23	12	18	n/a
national reports		63	65	58	51	50+	43	40	53	33			26	
Both sectors 'best' estimate	80	63	65	58	51	50	43	40	53	33	23		26	n/a

Sources: CIETT (2000) and national reports

Italy: Again, the Italian data appears shaky. The national report claims that 63% of agency work is in industry, with 22% in the tertiary sector. It also states that while earlier the majority of agency employees were white-collar workers, the split is now roughly even.

Table A13 Temporary agency work by economic sector in France, 1999 (%)

	Contracts concluded during the year	Rate of agency work
Agriculture	0.6	0.8
Industry	44.2	6.5
Including:		
Agriculture and food	10.6	6.7
Consumer goods	6.5	4.7
Motor industry	2.8	9.3
Intermediate goods	17.7	7.3
Capital equipment	6.2	6.6
Construction	14.3	7.8
Services	40.9	1.5
Including:		
Commerce	11.9	1.8
Transport	9.7	3.7
Services to undertakings	12.3	1.8
Total for all sectors	100.0	3.3

Source: Official national sources as quoted in national report.

Belgium: The Belgian national report, citing official sources, confirms the CIETT (2000) data. The majority of temporary work assignments are in industry (65%), followed by services (14%), commerce (8%) and catering (hotels, restaurants, cafes), at 4%. TAW is statutorily prohibited in construction and removals and is restricted in the public sector. The majority of temporary workers are manual workers (63%).

France: The official figures quoted in the national report are relatively reliable. Traditionally there has been a predominance of agency work in industry. However, as seen from Table A13, jobs in the service sector now account for 41% of agency work.

However, only 1.5% of all service jobs are performed by agency workers. The intensity of TAW in industry is appreciably higher, at 6.7%. While the national report notes an increase in the number of executive agency workers and a shift towards higher skills, Table A14 shows that lower skills levels still predominate.

Table A14 Qualifications related to temporary placements in France in full-time employment (%)

Skills level	%
Unskilled workers	46
Skilled workers	38
Employees	8
Intermediary professions	6
Executives	1
Total	100

Source: Official national sources as quoted in national report.

Austria: There would appear to be very reliable official data on the sectoral distribution of agency work in Austria, which has remained stable over the last five years. Growth has been most rapid in tourism and banking. 83% of Austrian temporary agency workers are in blue-collar employment.

Germany: More than half of all temporary employees were working in the engineering and electrical industries. TAW is also closely linked (although not disproportionately) with secretarial and clerical work: 12.2% of agency workers were in organisational, administrative and clerical occupations compared to 20.6% in total employment. In 1999, 26.4% of agency employees were unskilled workers or had not declared their occupations, compared to only 1.2% in all occupations. In terms of occupation, 48% were fitters, mechanics, engineers, technicians or the like, compared to only about 23% in total employment. The number of technicians – and this may suggest the impact of the information economy – almost doubled from 4,800 in 1996 to 9,000 in 1999.

Table A15 Temporary agency work by economic sector in Austria, 1999 (%)

Sector	%
Industry	50.5
Trade crafts services	32.1
Commerce	5.8
Transport, traffic, telecommunications	4.7
Banking, insurance	1.6
Tourism and leisure	1.0
Agriculture and forestry	0.0
Other	4.3
Total	100

Source: Official national sources as quoted in national report.

Portugal: In the Portuguese national report a survey by the national experts found that most user firms were in the service sector.

Spain: The sectoral distribution of agency assignments in Spain has remained stable, with roughly 55% being in services. The largest sub-group within this was catering (hotels, restaurants, cafes), representing 15% of all assignments,

Table A16 Temporary agency work by economic sector in Spain, 1996-1999

Sector	1996	1997	1998	1999
Agriculture	0,6%	0,9%	5,2%	4,8%
Industry	36,6%	38,0%	34,0%	34,9%
Construction	4,7%	5,7%	5,8%	4,6%
Services	53,1%	54,3%	52,6%	55,0%
Non-classified	0,5%	1,1%	2,3%	0,7%
Total	100,0%	100,0%	100,0%	100,0%

Source: Official national sources as quoted in national report.

Luxembourg: Construction is of particular importance in Luxembourg, where it accounts for 30% of all agency jobs.

In the **Netherlands**, while agency work is very evenly distributed throughout the economy, the highest intensity (rate) and share is in manufacturing. Table A18 was calculated from data reported in Pot *et al.* (2002) for 1998.

Table A17 Percentage of temporary agency workers in enterprises by sector, Luxembourg

Sector	Rate	Share
Primary sectors	22%	1%
Industry	7%	23%
Construction	16%	30%
Services	5%	41%
TOTAL	7%	100%

Source: Official national sources as quoted in national reports

Table A18 Temporary agency work by economic sector in the Netherlands

Sector	% of agency workers	Agency intensity
Agriculture and fishing	2,7%	2,9%
Mining and quarrying	0,0%	0,0%
Manufacturing	27,8%	6,0%
Electricity, gas and water	0,0%	0,0%
Construction	5,4%	2,7%
Wholesale and retail	11,2%	2,4%
Hotels and restaurants	3,1%	3,9%
Transport, communications	8,1%	4,4%
Financial intermediation	4,5%	3,9%
Real estate and business	9,9%	2,9%
Public administration	6,3%	2,7%
Education	2,7%	1,4%
Health and social work	5,4%	1,3%
Other community	2,7%	2,1%
Total	100,0%	3,4%

Source: Centraal Bureau voor de Statistiek (CBS), enquête beroepsbevolking 1998

Table A18 shows that in terms of sectoral intensity, agency work is quite evenly spread throughout the economy in the Netherlands. 33.2% of agency jobs are in industry (mining, quarrying, manufacturing, electricity, gas, water and construction). CIETT data does not count construction.

Denmark: Relying on turnover data, 27% of agency work is in the healthcare sector and 27% is in clerical work. Production, storage work and driving together account for 21% of turnover (Table A19).

The UK: According to the Labour Force Survey data cited in the national report, banking and finance, at 29%, account for the largest number of agency jobs. (As these areas represent only 14% of total employment, they are thus greatly over-represented.) 'All other services' make up 24%. As regards occupations, there are again major differences in the data from the various sources. The most reliable indicate that clerical and secretarial jobs constitute between 42% (LFS) and 58% (WERS) of agency jobs. There have been only minor changes in occupational profiles over time, although sources from within the TWA sector note a major increase in the nursing and medical field.

Table A19 Turnover in agency work in Denmark, by economic sector

Sector	Percentage share of turnover
Administration	27
Healthcare (including nursing)	27
Production/storage/driving	21
Catering, etc.	5
Specialist areas, including IT	5
Draughtsmen/CAD	2
Sales/demonstrating	2
Management/middle management	1
Other	10

Source: Official national sources as quoted in national report.

Finland: The data in the national report (from the TWA sector's representative organisation) shows that agency work appears to be very highly concentrated in the services sector. Unlike other Scandinavian countries, the health sector is rather insignificant. It is not clear in which sector clerical work is performed.

Table A20 Sectoral distribution of agency work in Finland

Type of work/sector	Share of turnover (%)
Clerical work	22,0%
Services (restaurants and trade)	62,0%
Industry, storage, transport	10,0%
Booking agencies (restaurants)	5,5%
Music industry	0,0%
Health services	0,5%
Total	100,0%

Source: Official national sources as quoted in national report.

While several national reports mention an increased tendency towards more skilled and highly qualified jobs, all the evidence shows that any such trend is not significant. It does appear, however, that there has been a move away from industry and towards services.

Finally, Table A21 presents European Labour Force Survey data on the gender breakdown of other forms of atypical employment, which it may be interesting to compare with agency work.

Table A21 Gender breakdown of other forms of non-standard employment (%)

	1995	1996	1997	1998	1999	2000
Fixed-term employment:						
women	10.8	11	11.4	12	12.4	12.8
men	8.5	8.8	9.2	9.6	10	10.2
Part-time employment:						
women	31.3	31.6	32.4	33.1	33.5	33.7
men	5.2	5.5	5.8	6.1	6.2	6.3
Self-employment:						
women	9.4	9.5	9.5	9.4	9.2	9.1
men	18.9	18.9	18.8	18.6	18.2	17.9

Source: European Labour Force Surveys

Table A22 Employers' reasons for using contingent workers (%)

Reason	Agency workers	Fixed-term contract workers
Surge in staffing needs	38	34
To help identify suitable personnel for a 'permanent' position	—	22
Short-term cover for staff absence/vacancies	59	—
Cover for maternity leave or long/annual leave	16	10
Unable to fill vacancies	19	—
To obtain specialist skills	12	17
Freeze on permanent staff numbers	11	15
Other/unspecified	4	18

As a percentage of employers who use both or either form of contingent employment

Note: an employer may give more than one reason.

Source: WERS 1998, taken from Cam, Purcell and Tailby (2002).

Appendix 4

Employment contract terms

A number of terms are used to describe various contractual relationships in employment. Some of these are inappropriate and may lead to some confusion. The following are what we deem to be appropriate terms and are what were used in this report.

Temporary agency work

The term '*travail temporaire*' is used in many countries, and 'temporary work' is used in English also. While commonly used, it is not appropriate terminology. There are many types of work of temporary or short duration, for example, that performed by the worker on the basis of various forms of limited duration contracts, such as casual and seasonal work. The term is not only inaccurate; it can also lead to confusion. (This has sometimes been the case with this project). Temporary agency work is necessarily temporary only in that the tasks performed at a particular firm are of a temporary nature. The key term is 'agency'. The most appropriate term is 'temporary agency work' or simply 'agency work', but never 'temporary work'. In this text we have used the terms 'agency work' and 'temporary agency work' interchangeably.

Limited duration contract

The term 'limited duration contracts' is used instead of the more common 'fixed-term contracts'. Many so-called fixed-term contracts are not fixed in calendar time. For example, probationary contracts may, in several Member States, be terminated by either party before the agreed expiry date. Similarly, contracts extend until the completion of a certain work task (e.g. the construction of a building). The common feature of all of these and other atypical contracts is not that they are fixed in duration but rather that they are limited in duration, hence the term 'limited duration contracts'. In some cases the national reports use 'fixed-term' to define a certain type of limited duration contract which does not include casual or seasonal work. Where this is the case, we retain the 'fixed-term' terminology; otherwise the term 'limited duration contract' is used.

Open-ended contract

The term 'permanent contract' is sometimes used and is clearly inappropriate, as what is commonly referred to as a permanent job can be terminated by the employer if there is just cause. While there are still a few 'jobs for life' in the public sector, even here the terminology is not appropriate (since the employee has the option to quit, they are hardly permanent). In Scandinavian countries the literal translation of the legal term is 'contract until further notice' which is also quite an accurate description. In this report, the term 'open-ended contract' is used.

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Employment in temporary agency work has been growing rapidly in recent years, part of the overall growth in atypical forms of employment that has been observed in the EU in the last two decades. This report examines the main trends in this form of employment, and the problems and challenges it poses for the different Member States and the EU as a whole. It puts the spotlight on the working conditions of temporary agency workers, and the specific features of such work that might help explain these conditions. It also looks at issues such as the position of temporary agency work in the labour market, equal treatment as regards pay and working conditions and collective bargaining aspects such as trade union participation and access to participation for agency workers.

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