



## Temporary agency work: national reports

# Portugal

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# Introduction

This report is a response to the objectives defined by the European Foundation for the Improvement of Living and Working Conditions, which aimed to analyse temporary work and the economic and regulatory contexts in which it is developed. It is essentially a descriptive study and conforms to the plan proposed by EFILWC which gives special emphasis to 3 areas of reflection: temporary work in the context of the labour market; temporary agency work and working conditions; temporary agency work and collective bargaining.

Just as in other countries of the European Union, temporary work has been becoming increasingly important in Portugal; this is illustrated by the entry of numerous companies into the market, among which important international companies are of note, and also by the marked growth in the volume of employment.

Although there has been an attempt for the legal situation to keep up with these dynamics, a significant deregulation of the sector has predominated as confirmed in the countless examples of informal or even legal work situations.

The abrupt change which has taken place over the last few years, both in the growth of the temporary agency work and in the diversity of its forms, explains the marked lack of information and documentation on this matter. The lack of data makes it particularly difficult to analyse many of the questions proposed by this study.

In order to overcome this difficulty, the analysis was done using various and complimentary sources (whose results do not always coincide) and a series of approximations to the actual situation in question. The study is based on data from official statistical sources, secondary sources (referred in the bibliography) and direct collection of information.

## *Statistical Sources*

- National Statistics Institute (INE) - Labour Force Survey;
- Ministry of Labour and Solidarity, Department of Labour, Employment and Professional Training Statistics - Tables of Employees;
- Employment and Vocational Training Institute (IEFP) - Record of Temporary Work Companies;

## *Direct collection of information*

- A postal enquiry was carried out to the temporary work companies registered in the records supplied by IEFP; 51 responses were obtained, which represents 27% of this universe;
- Interviews with various agents - those in charge of state regulating bodies (Employment and Vocational Training Institute and General Labour Inspection), the sector's business association (Portuguese Association of Temporary Work Companies) and central trade unions (CGTP-IN and UGT).

The analysis is organised in five chapters.

The first develops the conceptual framework.

The second presents the main features and dynamics of the labour market in Portugal, emphasising particularly the precarious situations.

The third deals with aspects regulating the sector - the development of the legal framework of temporary work and collective bargaining.

The fourth presents a framework of the evolution of the sector's entrepreneurial situation.

The fifth deals with the theme of temporary work, developing aspects related to the evolution of the volume of employment and the characterisation of temporary workers, as well as their working conditions.

# Conceptual framework

The different forms of employment are usually classified in terms of the so-called “typical” employment that is the most common form, generally defined by a restricted set of attributes:

- i) a relationship with an employer which both pays for the work and has a number of powers, namely of direction (programming and orienting the activity), regulation (establishing the company’s operating and discipline rules) and discipline (sanctioning acts in violation of working duties);
- ii) an undefined duration, that is one which has no previously established time limit;
- iii) working time similar to that of the majority of workers in the sector or job (usually measured in daily or weekly hours);
- iv) a place where the work is performed, fixed or not, but directly controlled by the employer;
- v) a general or specific purpose, which shapes the definition of the worker’s job.

The different forms of “atypical” employment can be defined on the basis of their distance from the rule, described above. The following five forms are classified according to their distance from the referred attributes.

## **False self-employment**

Self-employment, the situation in which the employee is also his own employer cannot in itself be considered an untypical form of employment in the light of the first attribute considered. Its only peculiarity lies in the fact that both parties of the social employment relationship (the one who renders work and the one who pays for that work, exercising powers of authority and direction) coincide in the same person, which guarantees him/her full autonomy. However, mixed forms of self-employment have emerged in recent years; false independent work is considerably removed from this standard example precisely because the referred powers of authority and direction are in the hands of a third party. This is quite frequently the case of companies, which have “independent workers” or “contractors” in their service who perform the same tasks and are subject to the same obligations as employees of that company, although no kind of social obligation is assumed by the employer. It is therefore a form of taking off this type of employment from the Labour Legal Framework, a form of “delabourisation” of employment.

## **Term contract**

This is one of the most common forms of “atypical” employment in Portugal. Its particularity lies in the fact that both parties (employer and employee) stipulate that the work contract has a defined duration (fixed term contract) or can be terminated in the case of a certain future incident (non fixed term contract). Under Portuguese law, not all term contracts are subject to the same regime, although all cases of this form of work are of an exceptional nature, associated to the confirmation of some circumstances foreseen in the law (in general terms, satisfying the transitory or seasonal need for manpower or satisfying the need for manpower in the launch phase of an activity or company). However, various studies on the situation in the labour market in Portugal show that the use of this kind of contract extends far beyond what is foreseen in the law.

## **Part time work**

This “atypical” form of employment is distinct because the working time (usually measured in weekly terms) is significantly less than that of the majority of workers in the sector or profession. Although there is no strict definition under Portuguese law, the general trend is to use the imported concept of “full time workers in comparable situation” as a reference unit, both in terms of the activity performed (same kind of work) and in terms of the place where it is performed (same kind of establishment). The question of the reduction of the working time necessary so as to qualify as part time is far from consensual, although it is common to consider 30 hours a week as the maximum limit.

### **Work from the home and telework**

This form of work is atypical in that the work is not done at installations controlled by the employing entity, but at installations controlled by the worker, namely in his own home. Two distinctions must be made however; on one hand, when the worker produces goods or services for a more or less undetermined client, for the market and thereby assumes the situation of an independent worker, taking advantage of full autonomy in the organisation of his work; on the other hand when the work is pre-determined by a company, by means of a contract, giving the company powers to orientate and control the work, and whereby the worker is in fact dependent on the company as a paid worker at home. Cases where this kind of relationship comes within the framework of a contract to render services and not a work contract, are also to be included in the referred trend to the “delabourisation” of employment. Telework can be considered as a specific form of work from home, using the potentials of information and communication technologies, and is also subject to the above-mentioned distinction.

### **Temporary work**

The concept of temporary work has two very different meanings in Portuguese terminology: that of limited duration (therefore being confused with there being a term contract) and that of being through the intermediary of a temporary work company. It is the latter (and more limited) understanding that is of relevance to us. It presupposes a relationship between three agents (worker, company which uses his working capacity and the temporary work company), based on two kinds of contract: a work contract between the worker and the temporary work company (its only peculiarity being that it foresees that the worker will render his services to a third party) and a contract for the provision of services between a company which intends to use temporary work and a company which supplies it. This form of work became typified in the law when the Decree Law 358/1989 came into force. However, many situations which come under category are not within this law (such as the renting of manpower or the placing of workers, particularly relevant in the construction and retail sectors).

## **The legal definition of Temporary Agency Work**

Portuguese legislation on temporary work adopts a definition similar to that described above.

Article 2 of the law in force considers the following notions:

- Temporary work company: person, individual or group, whose activity involves the temporary rendering to third parties, users, of the use of workers, who they recruit and pay for this purpose;
- Temporary worker: person who signs a temporary work contract with a temporary work agency, under which he is obliged to render his professional services to users; he is subject to the authority and direction of these users although his legal work status remains with the temporary work company;
- User: individual or collective person, with profit making objectives or not, who occupies, controls and directs workers ceded by the temporary work company;
- Temporary work contract: work contract drawn up between a temporary work company and a worker, by which the latter is obliged to render his services temporarily to the users in exchange for payment;
- Contract for the use of temporary work: contract to render services drawn up between a user and a temporary work company, by which the latter, in exchange for payment, places one or more temporary workers at the disposal of the former.

# The growth of atypical forms of employment

There have been significant changes in the shape of the labour market in Portugal in recent years, which also presents characteristics linked to a semi-peripheral economic framework.

At the start of the 80s, before adhesion to the European Union (1986), there was a combination of high levels of unqualified workers with great rigidity, linked to the protagonism taken by the unions in the revolutionary period which followed 25th April 1974.

This framework changed considerably after 1986 both in terms of the community orientations and support and also as a result of internal changes, namely those resulting from the liberalisation process of the economy.

Four fundamental aspects must be stressed to present a clear picture of the labour market in Portugal nowadays: the increase of the tertiary sector, the strong presence of women, the lack of qualifications and the precarious nature of working relationships.

In 1999, the tertiary sector represented 52% of total employment, having grown 30% since 1986. Financial and business services as well as restaurants and hotels are among the most dynamic activities, along with health and social action.

Table 1: *Evolution of employment in services (% total employment), Portugal, 1986-1999*

	1986	1999
TOTAL SERVICES	44.2	52.2
Commerce	11.5	14.4
Restaurants and Hotels	3.2	5.2
Transport and communication	4.3	3.5
Financial services, real estate, business services	3.1	6.0
Public Administration	6.9	6.1
Education	4.6	5.8
Health and Social Services	2.5	4.8
Other services	8.3	3.4

Source: *INE, Employment Statistics.*

This pattern of growth corresponds on one hand to the modernization of the economic fabric, or at least of its most innovative segments, with the introduction of pro-active management strategies (which is expressed in the growing complexity of the demand for specialized services); on the other, the strengthening of social and territorial cohesion through the growth of the supply of social services, led, in particular to an increase of the Tertiary Sector.

The importance of women of employment is another feature marking the labour market in Portugal. In fact, this situation is not recent, (women labour have increased greatly in the 60s/70s in response to the lack of male workers resulting from the Colonial War and also due to the emigration to France and Germany); however, it has reached particularly high levels in recent years, closely linked to the growth of the tertiary sector and in particular with the expansion of the social services.

## Temporary Agency Work: Portugal

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Table 2: *Evolution of employment rates (population of working age), Portugal, 1992-1999*

	1992	1993	1994	1995	1996	1997	1998	1999
Total	68.3	66.7	65.8	65.3	66.1	67.9	70.5	70.4
Men	79.5	77.2	75.6	74.3	75.2	76.8	79.7	77.8
Women	57.9	57.1	56.7	56.9	57.5	59.5	61.6	63.1

Source: *INE, Employment Statistics.*

There are a significant number of women in all professional groups; but they are strongly represented in groups of clerical workers and in personal and domestic services and underrepresented in enterprises high level staff; this reflects the reproduction of the traditional gender divisions.

Table 3: *Percentage of women in certain professions, Portugal, 1999*

Total	45.1
Directors	31.5
Intellectual and scientific professions	53.2
Intermediate Technical jobs	45.7
Clerical workers	61.4
Security, personal and domestic services	63.8
Agricultural workers	50.4
Industrial workers	25.3
Unqualified workers in the 3 sectors	61.9

Source: *INE, Employment Statistics.*

One of the main problems in the Portuguese labour market concerns the lack of skills. In spite of the public financial and organisational investment made in recent years to strengthen the school and professional training considerably, the results continue to be very unsatisfactory. In fact, this is a great obstacle to economic modernisation and social development.

Table 4: *Employment by educational level, Portugal, 1992 and 1999*

Educational level	1992	1999
None	10.5	10.0
Basic (1st cycle)	39.2	35.0
Basic (2nd cycle)	16.7	21.1
Basic (3rd cycle)	13.4	13.6
Secondary	12.8	11.4
Higher	7.4	9.0

Source: *INE, Employment Statistics.*

There has been considerable progress in the field of professional training but there continue to be high levels of inadequacy between the public training supply and the demand for skills from the employing companies.



Finally, within this framework, we would like to stress the various aspects of analysis which, as a whole, identify high levels in the precarious nature of the working relationship and the growth of atypical forms.

To specify this idea, we refer again to some of the concepts presented in chapter 1 (Conceptual framework), namely part time work, self-employment and the type of working contract.

Part time work is quite insignificant in Portugal in comparison with the other European Union countries. Educational services are the only activity in which part time work is significant: in 1999, 23% of the workers had a working week of less than 26 hours in that segment of the labour market.

Table 5: *Employment by usual length of working week and by sex, Portugal, 1999*

Usual working time/week	Total	Women
Up to 15 hours	3.2	5.2
16-25 hours	5.9	9.2
26-35 hours	12.8	17.4
36-40 hours	53.6	49.9
41-45 hours	9.2	7.5
More than 45 hours	15.0	10.6
Total	100.0	100.0

Source: *INE, Employment Statistics.*

On the other hand, the large number of workers doing more than 40 hours a week should be stressed (18% in 1999). This is particularly frequent in manufacturing (in the more traditional branches), in transport and warehousing, in commerce and in the restaurant sector.

Self-employment in Portugal reaches very high levels (19% of total employment in 1999) and there has been a significant increase in recent years (plus 17% between 1992 and 1999), which certainly corresponds to false forms of salaried work, which allow the worker and the employer to reduce the tax burden.

There has also been a steady rise in term contracts in recent years which is a clear expression of the flexibility strategies adopted by the employers of the various sectors of activity and assisted by the increasingly permissive legal framework.

Table 6: *Types of contracts (% of employees), Portugal, 1999*

	Total	Women
Effective contract	81.0	79.2
Term contract	13.4	15.7
Service acquisition	1.5	1.6
Other type	4.2	3.5
Total	100.0	100.0

Source: *INE, Employment Statistics.*

The precarious situation of term contracted workers is much greater than that of other workers. The number of work accidents (Table 7) clearly indicates the disadvantageous situation of these workers in terms of their working conditions.

Table 7: *Working accidents according to the type of contract, Portugal, 1992-1999 (%)*

	1992	1999
Effective contract	61.0	56.3
Term contract	18.7	18.8
Service acquisition	2.8	3.0
Other type	17.5	21.9
Total	100.0	100.0

Source: *IGT, Annual Report of Activities, 1999.*

In conclusion two key ideas should be highlighted in order to understand the configuration of the labour market in Portugal:

- features of permanence and features of change, pre-fordist characteristics and post-fordist trends are frequently intersected leading to complex employment profiles and apparently contradictory situations;
- The segmentation of the labour market has tended to be increased by means of the very limited mobility between the central and the peripheral segments associated with a strong circulation within each segment; this segmentation has a clearly trans-sectoral nature, in particular in the more qualified sectors.

## The legal framework

Portuguese legislation has included a diploma providing a legal framework for this kind of employment since the end of the 80s (Decree Law 358/89).

In 1996 and in 1999, new diplomas (Laws 39/96 and 146/99) introduced some changes although the general sense remained unaltered.

The legislation regulates the practice of the activity of the temporary work companies, the general conditions for the use of temporary work by other companies (typifying the circumstances in which it is allowed and the maximum duration) and the specific conditions of the temporary work contract (duration, regime of rendering of work, payment and other worker's rights, social responsibilities of the TAW company). The main principles regulating the occasional concession of workers, only permitted in very exceptional circumstances is also included in the legislation.

In general terms, this regulation of temporary work is relatively restricted (reason and time restricted), which is justified by the development of "marginal forms" of employment which do not combine with the guarantee of the worker's rights and social protection.

The following table summarises the main aspects of the legislation in force:

<b><i>Requisites of companies for the furthering of the activity</i></b>
Practising this activity requires prior authorisation from the Employment and Vocational Training Institute, who must confirm that the companies are apt and qualified for the task and issue the respective permit.
A guarantee equal to 200 national minimum incomes must be given, aimed at guaranteeing responsibility for the payment of salaries and national insurance obligations.
<b><i>General conditions for the fixing of contracts</i></b>
The use of temporary work is only allowed in typified cases.
The length of the contract corresponds to the continuation of the justifying cause, and a maximum length is defined for each case.
These cases and time limits are as follows:
<ul style="list-style-type: none"> <li>● Substitution of workers who are absent or unable to work and sporadic substitution of workers for direct family support, length of contract corresponds to the length of the justifying cause;</li> </ul>
<ul style="list-style-type: none"> <li>● Need arising from a vacant work post and during the recruitment process – up to a maximum of 6 months;</li> </ul>
<ul style="list-style-type: none"> <li>● Need arising from a temporary or exceptional increase in the activity – up to a maximum of 12 months, which may be prolonged to 24 months with the authorisation of the General Work Inspection;</li> </ul>
<ul style="list-style-type: none"> <li>● Need arising from seasonal work – up to a maximum of 6 months in each year, as long as the seasonal nature of the work maintains;</li> </ul>
<ul style="list-style-type: none"> <li>● Need arising from a specifically defined task which is not long lasting, of fluctuations in the activity less than half the normal weekly work period or limited temporary projects – 6 months, prolongable with authorisation from the General Work Inspection.</li> </ul>

<b><i>General conditions for the use of temporary work abroad</i></b>
The use of temporary work outside the country also implies:
<ul style="list-style-type: none"> <li>● A guarantee totalling 10% of salaries for the foreseeable duration of the contracts, with a minimum of 2 months of salaries added to the travel costs of repatriation;</li> <li>● Insurance which guarantees assistance in case of illness or accident;</li> <li>● Guarantee of repatriation in case of termination of the contract or lack of prompt payment of salaries.</li> </ul>
<b><i>System of rendering services</i></b>
During the period of the temporary work contract, the worker is subject to the legal situation applicable to the user with regard the means, the place, the duration of work and suspension of the rendering of service, hygiene and safety and access to welfare installations.
The use of temporary workers in work posts which are particularly dangerous to the worker's health and safety is not permitted; the user is obliged to provide information on risks to the worker's safety and health inherent to the work post in which he is to be placed.
Disciplinary powers lies with the Temporary Work Company.
The temporary worker may be ceded to more than one user.
The Temporary Work Company may not demand any money from the worker.
In the case of the invalidity of the Temporary Work Contract, the work rendered to the user becomes subject to the norms of a permanent work contract.
<b><i>Payments and social protection</i></b>
The temporary worker is entitled to:
<ul style="list-style-type: none"> <li>● The minimum payment fixed by law or by the collective work regulations applicable to the professional category, or to that practised by the company on condition that it is higher;</li> <li>● Paid holiday, holiday and Christmas subsidy and other regular and periodic subsidies practised in the user company, in proportion to the length of the contract;</li> <li>● The general social security regime of contracted workers, the Temporary Work Company being responsible for fulfilling the respective obligations;</li> <li>● Insurance against work accidents.</li> </ul>
<b><i>Professional Training</i></b>
The Temporary Work Companies are obliged to apply at least 1% of the annual turnover to the professional training of temporary workers.
<b><i>Retractions and sanctions</i></b>
The Law determines a wide range of retractions and sanctions (up to suspending the practice of the activity) where the established norms have been infringed.

## The view of social partners and policy makers

The legislation on temporary work is recognised by the different social partners as an attempt to provide a legal framework for a rapidly expanding phenomenon, in which there has been a generalisation of situations that threaten the socially accepted rules for the working of the labour market.

However, social partners' views diverge substantially, starting with their position towards the actual existence of temporary work.

For the business associations this is an instrument which favours the flexibility of the use of the worker which is indispensable to companies' competitiveness, and a swift recruitment mechanism which is far more advantageous than the public employment services.

The Association of Temporary Work Companies, on the other hand, basically stress the positive aspects introduced by the legislation as this has led to far greater transparency in the market rules, reducing the effects of unfair competition from the informal sector.

One aspect which stood out in the postal enquiry conducted was that many companies indicated excessive restrictions as the main criticism of the legislation in force. The maximum contract length is the main complaint in this field (table 8).

Table 8: *Critical aspects of the legislation, in the opinion of temporary work companies*

Restrictive aspects of the contract length	37.3%
Restrictive aspects of contract motivation	11.8%
Lack of effective control mechanisms	11.8%
Excessively high guarantees	9.8 %
Obligation to do Professional Training	7.8%

Source: *Postal Enquiry to Temporary Work Companies*

The unions have distinct positions regarding actually permitting the existence of Temporary Work. Some consider that there are other mechanisms that respond to the needs for temporary work in the present framework of the labour market and labour legislation in Portugal and that the temporary work legislation has merely perverse effects.

Others, however, accept this form of employment.

The abusive and non-legal use of temporary work is unanimous as their main concern.

In their opinion, the illegality predominating the temporary work panorama is responsible for the connection of this form of work to the most precarious work situations which go as far as violating constitutional norms.

With regard to the existing legislation, they support its restrictive nature and refuse any trend towards liberalisation; they also support the special duties which the Temporary Work Companies are obliged to have. Essentially, they contest the limited nature of the sanctions for cases of non-compliance and the ineffectiveness of the control mechanisms.

There is an extensive list of examples of illegalities, covering not only the sectors where the informal or clandestine sector dominates (namely civil construction), but also many others such as telecommunications.

The main aspects of non-compliance with the law which they indicate are: the use of temporary work in permanent work posts (not fulfilling the motivation restrictions); co-operation between companies to exceed the maximum limits of contract length; non-compliance with the norms on work timetables and salaries.

These opinions are largely shared by the public bodies, namely the General Labour Inspection.

This body's 1999 annual report recognises that "many companies using temporary work have been associating illegitimate advantage to the precarious aspect of work relations arising from the use of cheaper and discriminated manpower in relation to their own workers"; also "the lack of transparency in temporary work companies has benefited the temporary work companies and their management show no sign of social concern or the minimum respect for the rules of the market and fair competition".

IGT recognised high levels of non-compliance with the law, namely in service sectors which involve large numbers of workers and denounced the practice detected which transfers the temporary work contractual responsibility from the human resource management area to the commercial or productive "as if they were dealing with just any other product".

The main violations of the law detected during inspections in 1999 were: false temporary work (illegal ceding of workers though companies rendering services and outsourcing); the contracting of temporary work companies without a permit; various signs of non-payment of salaries owed to workers, as well as tax and social security evasion or fraud; illegal foundations for the drawing up of temporary work contracts; successive contracting of workers for the same work post.

Bodies responsible for employment policy believe that this is "a high risk area" in the framework of labour market management.

On one hand, they recognise the positive effects of temporary work in terms of job insertion, particularly for the young, thus emphasising the role of active employment policies, such as training periods.

But it is also recognised that non-compliance with the law - the terms of which they consider adequate - could introduce serious disturbances in the adjusting of the labour market, and is even a contradiction to the current trend in employment policy efforts towards the qualification of employment.

In opposition to the situation registered in other countries, the expansion of temporary work in Portugal has contributed to an increase in the process of labour market deregulation and also to an illegal reduction in the social and labour rights of the workers. These ideas were clearly mentioned by responsible people in the General Labour Inspection.

In the framework of "an illegality culture", firms that truly incorporate a social dimension present some difficulties in consolidating its position in the market, due to unfair competition based on illegality.

## **Collective bargaining in temporary agency work**

Generally speaking, the degree of collective bargaining in Portugal is insignificant.

In 1989, the only existing agreement between the Portuguese Association of Temporary Work Companies and the Federation of Office and Services Workers' Unions was drawn up.

Its contents lost all relevance when the specific legislation on temporary work came into force shortly after. In fact, this collective contract made no advances with any regulamentary aspects different from those which were authorised by the law; it can actually be said that the law responded more effectively in terms of the workers' protection.

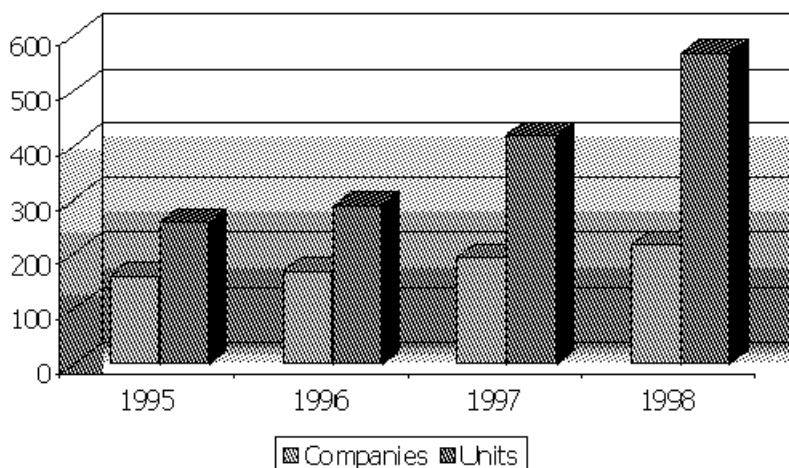
On the other hand, the sector's only representative organisation is that which assembles the companies - the Portuguese Association of Temporary Work Companies; although the majority of the companies are not members, the Association does include those with the greatest market.

From the point of view of the unions, there are no specific ways of organising temporary workers, and the level of unionisation is very limited. Thus the sector's regulation is made essentially following the criteria of the guidelines from the social agreement pact and the legal framework.

### The companies

Between 1995 and 1998, the evolution of the number of companies and offices of temporary work was highly positive. In this period, there was an absolute growth of 58 firms of temporary work and the total of sector in 1998 has reached 219 enterprises. Estimates for 2000 point to more than 250 firms.

Figure 1: *Number of TAW companies and units, 1995-98*



Source: *MTS/DEtEFP, Tables of Employees (EAC 745)*

These firms, registered by the Ministry of Labour and Solidarity, are highly concentrated in the Metropolitan Areas of Lisbon (64,8%) and Oporto (14,2%), although the figures for the second region are much smaller.

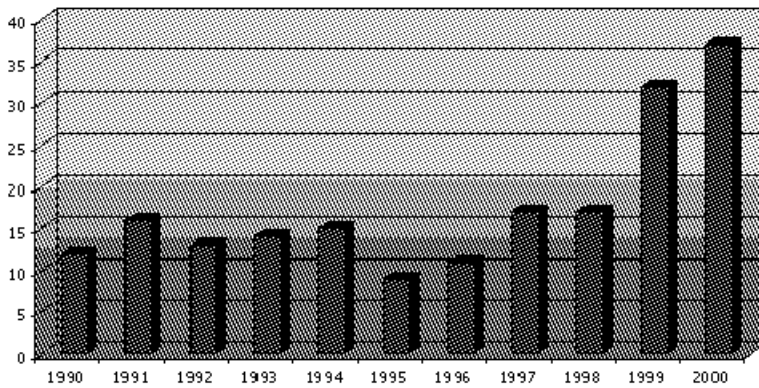
The list of authorised temporary work companies given by IEFP (Institute of Employment and Vocational Training), not only confirms the strong levels of geographical concentration in the two metropolitan areas, but also shows the agglomeration of these firms in the cities that are the heads of the metropolitan areas: Lisbon and Oporto.

Furthermore, the recent expansion of the sector did not bring any changes to the geographical pattern of the entrepreneurial fabric.

The number of active companies of temporary work in January 2001 according to the licences given by the IEFP reveals the continuous dynamics of this activity branch, especially since 1995.



Figure 2: TAW companies licensing, 1990-2000



Source: IEFP Data Base

This growth in the number of firms of temporary work is associated to a trend to the enlargement of the companies, process that can be interpreted as a sign of entrepreneurial concentration. Therefore, the dynamic of the sector seems to be associated to a concentration process.

The evolution of the relative weight of firms and employees classified in the highest ranks of sales volume point in the same direction.

Table 9: Firms of temporary work and number of employees (CAE 745), according to the size of firm

	1995		1998		Employees - 1998	
	Nº	%	Nº	%	Nº	%
1 to 9 employees	61	37,9	72	32,9	230	0,7
10 to 49 employees	54	33,5	63	28,7	1428	4,7
50 to 99 employees	12	7,5	27	12,3	1897	6,3
100 to 399 employees	27	26,8	38	27,3	7191	23,8
400 and more	7	4,3	19	8,7	19460	64,4
<b>Total</b>	<b>161</b>	<b>100,0</b>	<b>219</b>	<b>100,0</b>	<b>30206</b>	<b>100,0</b>

Source: MTS/DETEFP, Tables of Employees

Table 10: *Firms of temporary work (CAE 74500), according to the sales volume (EURO X 1000)*

Sales volume	1995	1996	1997	1998
< 250	35	37,1	29	35,3
250 - 499	19,5	17,1	17,4	14,0
500 - 997,60	19,5	15,7	18,1	15,7
250 - 999	39	32,8	35,5	29,7
1000 - 2499	14,6	20,7	20,6	14,6
2500 - 4999	8,9	5,7	11,6	13,5
>4999	2,4	3,6	3,2	6,8
Total (%)	100,0	100,0	100,0	100,0
Total (n°)*	123	140	155	178

Source: *MTS/DETEFP, Tables of Employees.*

\* It only considers the enterprises that answered to this question

As far as the entrepreneurial structure of the temporary work sector is concerned, it is important to stress the diversity in the size of the firms. The 19 biggest companies registered in 1998, despite corresponding to 6,4% of the total of firms of the sector, concentrated almost 2/3 of the workers. In contrast, the very small firms - less than 10 employees - represented 32,9% of the total enterprises but only 0,7% of the total employment in the sector.

The biggest companies show an increasing trend to develop connections with international groups which have a growing quota of the European market.

Concerning the juridical nature, the panorama of the branch of temporary work is dominated by limited liability societies. Individual societies and corporations can also be found in the entrepreneurial structure of this branch of activity, although in a considerably smaller number. The firms classified in the remaining types of juridical nature are completely irrelevant.

Table 11: *Companies of temporary work (CAE 74500) according to their juridical nature*

	1995	1998
Limited Liability Societies	88,8	87,2
Individual Societies	5,6	5,9
Corporate Societies (corporations)	3,7	5,0
Others	1,8	2,0
<b>Total</b>	<b>100,0</b>	<b>100,0</b>

Source: *MTS/DETEFP, Tables of Employees.*

The analysis developed in this section of the report is based in the available data of the official statistics that only consider legal firms. However, the situation of this branch in Portugal is characterised by several irregular situations, like was mentioned in a previous chapter.

## The user sectors

The dynamics of the temporary work market are also evident for the user sectors. Although the statistical information available is not very revealing, all agents involved in this market are unanimous in their recognition that temporary work is currently significant in all economic sectors. The enquiry conducted on temporary work companies illustrates this opinion.

Contrary to what these interlocutors state, stressing the central role which civil construction plays among the user sectors, the answers obtained confirm that services occupy the first place, followed closely by the manufacturing industry. Meanwhile, this enquiry's limitations should be born in mind, as well as the fact that it does not cover companies which are not legalised, many of which operate primarily in civil construction.

The enquiry also confirms that highly specialised temporary work companies, operating only in one field of activity or in a well-defined professional sphere coexist with other more general companies which offer temporary workers to user companies from any field of activity.

Table 12: *Main user sectors of temporary agency work*

	No. of answers	%*	Persons x months
Agriculture, Fishing	2	3,9	45
Manufacturing	26	51,0	7478
Civil Construction	17	33,3	2088
Retail	9	17,6	1303
Services	30	58,8	14647
Total of answers	51	-	-

Source: *Postal survey to Temporary Agency Work Companies, 2000*

\* % relative to the total of answers

## Temporary workers - how many, where and who they are?

### The volume of temporary work

The triangular relationships in the labour market in Portugal certainly exceed by far the placements through temporary work agencies. The agencies correspond to the legal side of the phenomenon, which, in total, must reach a very significant percentage, particularly in the construction sector (an activity in which the agent is a well known and frequent figure who controls large segments of manpower, notably that the most vulnerable such as immigrants in an irregular situation) and commerce (a sector where the triangular relationship is often established through a merchandising company).

In relation to the main illegal activities in the ambit of temporary work, the General Labour Inspection's 1999 Annual Report refers that "false temporary work - illegal ceding of workers through companies rendering services - is a very frequent infringement and this enhances unfair competition, namely through the low direct and indirect costs of personnel provided and general non-compliance with the workers' individual and social rights" (p.60).

Due to the informal or illegal nature of these working relationships, the precise size of this sub-market is obviously unknown; only the figures on the formal triangular relationships established through temporary work agencies are known - the visible part of the iceberg.

The volume of formal temporary work as well as its structure and evolution can be estimated using two kinds of data made available by the Tables of Employees distributed by the Ministry of Labour and Solidarity (MTS/DETEFP):

- By means of the Classification of Economic Activity: CAE 745 - Selection and Placement of Personnel
- By means of the Workers Collective Regulamentation Instrument: IRCT 25165 - Rendering of temporary work services

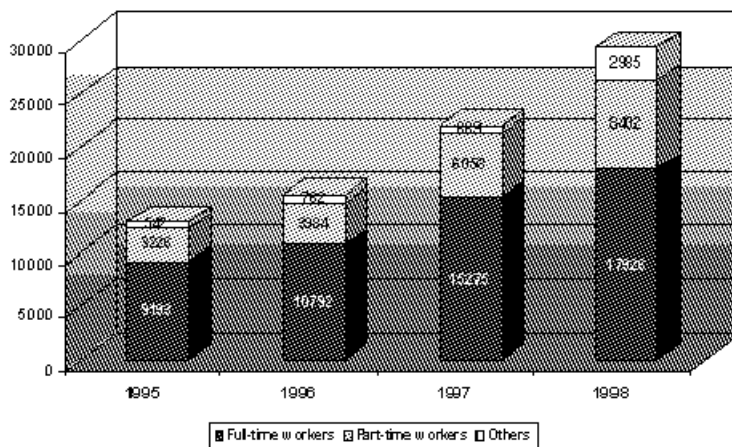
Although the latter source corresponds more precisely to the universe under study, the former allows us to know some of the workers' characteristics which are essential for the definition of their profile.

In 1998, 29,313 temporary workers came under IRCT 25,165<sup>1</sup>, which represents a rapid growth since 1995.

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<sup>1</sup> In 1998, there were 30,206 registered workers in the CAE745; this figure includes workers rendering services in temporary work companies.

Figure 3: Number of temporary workers, 1995-1998



Source: MTS/DETEFP, Tables of Employees

Between these two dates, in 3 years, there was a variation of +126% in the number of temporary workers. This growth was most marked in the part time temporary work category (+160%).

Table 13: Number of temporary workers (IRCT 25165), 1995-98

1995	1996	1997	1998
12961	15538	21997	29313

Source: MTS/DETEFP, Tables of Employees

In 1998, formal temporary workers were 1.3% of the total employees which is a very small number in comparison with other European Union countries.

Meanwhile, estimates for the year 2000, coming both from the Association of the Enterprises of the Branch and the General Inspection of Labour coincide in a number of approximately 100.000 temporary workers, of whom less than 50.000 would be registered in the official statistical sources. Being so, the contribution of temporary workers for the total volume of employment would be well above 2.5%.

### The regional distribution of temporary work

Nevertheless, it is important to consider significant regional differentiations (Table 14): in 1998, 70.5% of the total temporary workers were concentrated in the Lisbon and Vale do Tejo region. This segment is 2.4% of the labour market in this region.

Table 14: *Regional distribution of temporary workers (IRCT 25165), 1995-98 (%)*

Portuguese Regions	1995	1996	1997	1998
NORTH	22,0	22,5	22,6	21,5
CENTRE	6,3	6,8	9,2	6,5
LISBON AND TAGUS VALLEY	71,1	68,8	66,3	70,5
ALENTEJO	0,1	0,7	0,5	0,7
ALGARVE	0,4	1,0	1,2	0,8
AZORES+MADEIRA	0,1	0,1	0,3	0,1
TOTAL	100,0	100,0	100,0	100,0

Source: *MTS/DETEFP, Tables of Employees*

### The profile of temporary workers

The gender division in the temporary work segment is similar to that of the global figures (Table 15); however, the evolution between 1995 and 1998 presents one feature worth highlighting.

The strong increase of temporary work corresponded to a masculinisation process: between 1995 and 1998, the variation of the number of men and of women was +143% and +110% respectively.

This trend could indicate that due to the role they play in the family, women respond with greater difficulty to the demands for flexibility imposed by temporary work, particularly timetables. On the other hand, it could also express the change in the profile in demand, directed to more traditionally masculine work.

Table 15: *Temporary workers and total employees by gender, 1995 and 1998 (%)*

	1995		1998	
	Temporary workers	Total of employees	Temporary workers	Total of employees
Men	55,0	59,0	58,6	57,5
Women	45,0	41,0	41,4	42,5
Total	100,0	100,0	100,0	100,0

Source: *MTS/DETEFP, Tables of Employees*

The temporary worker segment is a very young one (Table 16) - in 1998, 38.4% were under the age of 25. This age group represents 17.9% of the total employed.

There was a slight ageing between 1995 and 1998 however: the number of temporary workers aged 40 or more went from 16.3% to 19.2%, while there was a fall in the 25 - 39 age group.

Table 16: *Temporary workers and total employees by age groups, 1995 AND 1998 (%)*

	1995		1998	
	Temporary workers	Total of employees	Temporary workers	Total of employees
less than 20 years old	9,5	5,3	9,6	4,1
20-24	28,9	14,3	28,8	13,8
25-29	19,6	16,2	18,6	16,1
30-34	13,9	14,6	11,8	14,6
35-39	10,2	12,5	9,4	12,6
40-49	11,6	20,2	12,6	20,5
50 and more	4,7	14,0	6,6	14,9
Ignored	1,5	2,8	2,7	3,4
Total	100,0	100,0	100,0	100,0

Source: *MTS/DETEFP, Tables of Employees*

Generally speaking, the age structure of temporary work indicates that this form of employment is mainly a means of entering the labour market, working alongside others such as the placement of young people in the labour market by public bodies (Job Centres).

This idea - temporary work as a means of entering the labour market - arose frequently in the various interviews conducted during the study. The various kinds of agent interviewed even suggested, though not very concretely, that the expansion of temporary work is partly a result of the lack of effectiveness of public bodies, namely the excessive time taken between a request from a company and the response to that request. From this perspective, the use of temporary work corresponds more to the need for a rapid response to the fluctuations in the volume of work than to strategies to reduce the companies' social obligations.

The level of schooling of temporary workers is relatively high when compared with workers as a whole (Table 17) - 45.9% of temporary workers had 9 years schooling or more in 1998<sup>2</sup> as opposed to 37.4% in the workforce as a whole.

Meanwhile, if we bear in mind the age profile, we must conclude that the younger generation of temporary workers is a group with low school qualifications.

<sup>2</sup> At present, compulsory schooling corresponds to the 3rd cycle of basic education - 9 years.

Table 17: *Temporary workers and total employees by educational levels, 1995 and 1998 (%)*

	1995		1998	
	Temporary workers	Total of employees	Temporary workers	Total of employees
Less than 1st cycle	1,1	3,1	1,2	2,4
1st cycle	24,4	41,2	22,1	36,0
2nd cycle	17,6	21,6	18,3	22,1
3rd cycle	14,0	14,0	19,5	15,3
Secondary	18,1	12,4	21,7	15,2
Technical Studies	0,2	0,2	0,3	0,3
Bacharelato	0,9	1,5	1,3	2,0
Higher	1,3	3,4	3,2	4,6
Ignored	22,3	2,5	12,5	2,1
Total	100,0	100,0	100,0	100,0

Source: *MTS/DETEFP, Tables of Employees*

Nevertheless, there was a very favourable evolution between 1995 and 1998 as there was a fall off in the group with lower levels of schooling (1st cycle of basic education - 4 years) and a significant increase of the proportion of those with higher educational levels, including further education.

These figures indicated that despite the low qualification levels associated to temporary work, there is increasing demand for jobs or tasks which demand higher professional competences.

### **Professional structure**

In 1998, most represented occupational categories were those in the production area of industry and civil construction. However, occupational categories linked to the tertiary sector are also significant and registered the greatest increases between 1995 and 1998 (Table 18).

The data analysed indicates a growing demand for temporary work for low qualified tertiary work, particularly in the logistics and computer segments. However, a growth is also found in the work which requires greater professional competence, such as salesmen or fitters.



Table 18: *Temporary workers (IRCT 25165) by occupational category, 1995 and 1998*

	TPCO total		Distribution % TPCO		Increase % 95-98
	1995	1998	1995	1998	
FITTERS	103	268	0.8	0.9	160.2
SALESMAN	20	581	0.2	2.0	2805.0
COMMERCE	399	1260	3.1	4.3	215.8
RESTAURANT	222	1063	1.7	3.6	378.8
ADMINISTRATIVE	1567	3014	12.1	10.3	92.3
COMPUTERS	290	1387	2.2	4.7	378.3
TRANSPORT	201	453	1.6	1.5	125.4
LOGISTICS	705	3578	5.4	12.2	407.5
PERSONAL SERVICES	1023	1425	7.9	4.9	39.3
CLEANING	231	966	1.8	3.3	318.2
OTHER TERTIARY ACTIVITIES	246	527	1.9	1.8	114.2
INDUSTRIAL AND CIVIL CONSTRUCTION	4255	8719	32.8	29.7	104.9
AGRICULTURE	1	18	0.0	0.1	1700.0
IGNORED	3698	6054	28.5	20.7	63.7
<b>TOTAL</b>	<b>12961</b>	<b>29313</b>	<b>100.0</b>	<b>100.0</b>	<b>126.2</b>

Source: *MTS/DETEFP - Personnel Charts.*

Examination of the occupations with most frequent use and which represent 50% of temporary workers provides us with a more detailed understanding of the occupational structure of temporary work (Table 19).

First in the occupational ranking we find warehouse hands who represent 8.3% of the temporary workers registered in the 1998 Personnel Charts. Not only is this group strongly represented but it also demonstrated a very large increase between 1995 and 1998.

Of the 6 occupations with the greatest number of temporary workers, poorly qualified services stand out - canteen/refectory assistants, waiters, cleaners.

Industry and civil construction workers are also a very significant percentage, but with one important difference from other occupations, namely a marked fall between 1995 and 1998 (-32.2%). On the other hand, civil construction and industry also demonstrated a very noticeable increase in the more highly qualified occupations.

Table 19: *Temporary workers (IRCT 25165) according to the most frequent occupation, 1995 and 1998*

	1998 – no.	1998 - %	Increase % 1995-98
WAREHOUSE HAND	2419	8.25	1229.1
CANTEEN/REFECTORY ASSISTANT	1207	4.12	40.5
DATA REGISTER OPERATOR	1132	3.86	424.1
CLEANER	966	3.30	318.2
CIVIL CONSTRUCTION AND INDUSTRY WORKER	928	3.17	-32.2
WAITER	897	3.06	475.0
CLERK 3.	818	2.79	71.8
FITTER	818	2.79	948.7
WRAPPER	787	2.68	140.7
UNSKILLED WORKER	743	2.53	109.3
SALES ASSISTANT	581	1.98	2805.0
WAREHOUSE ASSISTANT	497	1.70	245.1
CLERK 1.	445	1.52	239.7
CARPENTER 1.	437	1.49	467.5
BLACKSMITH 1.	420	1.43	233.3
CLERK 2.	417	1.42	-2.8
BLACKSMITH 2.	407	1.39	242.0
MASON 1.	404	1.38	417.9
OFFICE TRAINEE 1.YEAR	340	1.16	190.6

Source: *MTS/DETEFP - Personnel Charts.*

In short, in terms of occupational structure, it can be stated that the expansion of temporary work:

- Is going through a tertiarisation process;
- Continues to be largely unqualified, except in the case of the manufacturing industry which seems to be evolving towards a demand for more highly qualified occupations.

This evolution could also indicate that the demand from industry and particularly civil construction for the more unqualified segments has been transferred to illegal or informal markets of temporary work or to other forms of the labour relation, such as subcontracting.

## Job Quality and Working Conditions

Overall, the qualitative information collected points clearly to very unfavourable working conditions of temporary workers in comparison with other segments of the labour market.

The above-mentioned IGT/General Labour Inspection's Annual Report (1999) states that the following infringements regarding work conditions are frequent:

*by temporary work companies*

- Salaries below those defined by the law, collective work agreements or practised in the user company;
- Lack of total payment of hours worked on complementary rest days or holidays;
- Lack of total payment of holiday period, holiday subsidy and Christmas subsidy;

*by user company*

- Contracting of temporary workers with categories inferior to the job actually done or not corresponding to that given to their workers with the same job;
- Lack of registration and non-compliance with the legal limits for additional work done.

As an example, the activity of inspection conducted between October 1998 and April 1999 (which checked around 2000 temporary workers) identified several kinds of irregularities and has led to the application of sanctions to the firms. These included high fines, coercive integration of 278 workers in the formal staff of the user firms and the obligation to pay a cumulated debt of almost 1,5 million EUROS in wages and social contributions.

Union organisations confirm the problems detected by IGT regarding working conditions and stress in particular the excessive length of the working period. They referred that temporary workers frequently work more than 10 hours a day and/or do not have a pre-defined timetable and must be available 24 hours a day, 7 days a week.

In addition to timetables, the union organisations also draw attention to the greater frequency of working accidents among temporary workers, due mainly to the lack of preparation for the work done.

Furthermore, they stress the non-compliance with the law regarding professional training, stating that a large proportion of temporary work companies do not provide training and therefore prevent the qualification of workers and increasing their vulnerability in the labour market.

Data coming from the General Inspection of Labour point to an increase in the expenditures affected to vocational training by the firms of temporary work. Despite this increase (reached 0,3% in 1999), the figure is still very far from the amount required by the law (1%).

Salaries are also a concern raised by the union organisations, notably with regard to payments in addition to the base payment - food and transport subsidies, commissions, bonuses, etc.

However, the figures on payments registered by MTS/DETEFP (Table 20) give a clear indication of the evolution of temporary work, tending towards increased quality - the variation registered between 1995 and 1998 is higher than the average increase of salaries.

The evolution of average monthly salaries earned - as a criterion to assess the job quality - shows however very different situations in the various occupational categories:

## Temporary Agency Work: Portugal

- Very positive variations in professions linked to transport and industry and civil construction;
- Negative variations in restaurant and sales work.

This data indicates that the expansion of temporary work includes quite distinct dynamics according to the user sector.

Table 20: *Temporary workers (IRCT 25165) according to professional categories and average wages, 1995 and 1998*

	Average income by month (base)			Average wages by month (base and subsidies)		
	1995	1998	Increase %	1995	1998	Increase %
FITTERS	124098	131733	6,2	140713	152442	8,3
SALESMAN	104466	94723	-9,3	127231	111425	-12,4
COMMERCE	70608	79892	13,1	86048	99069	15,1
RESTAURANT	124884	108026	-13,5	131427	111242	-15,4
ADMINISTRATIVE	91231	101917	11,7	103741	119869	15,5
COMPUTERS	83933	91476	9,0	97286	116069	19,3
TRANSPORT	87406	99750	14,1	93759	127459	35,9
LOGISTICS	74802	76565	2,4	91966	96952	5,4
PERSONAL SERVICES	67928	78329	15,3	71184	83105	16,7
CLEANING	65237	80512	23,4	74383	88633	19,2
OTHER TERTIARY ACTIVITIES	97445	89573	-8,1	103450	104573	1,1
INDUSTRIAL AND CIVIL CONSTRUCTION	71691	86689	20,9	88284	109798	24,4
AGRICULTURE	0	63340	--	0	72252	--
IGNORED	80498	92772	15,2	96264	111516	15,8
<b>TOTAL</b>	<b>78385</b>	<b>89808</b>	<b>14,6</b>	<b>92188</b>	<b>108104</b>	<b>17,3</b>

Source: *MTS/DETEFP, Tables of Employees*

To conclude the analysis of the working conditions, the results obtained in the Enquiry conducted on Temporary work companies (Table 21) are given below. We emphasise the following aspects:

- The average length of contracts is very short, and the proportion of companies referring to average contract lengths of more than 6 months is very limited;
- The average time connected to the TWC is much longer - 51% of the companies refer that it is on average more than 6 months; this indicates that in most cases the workers go through a number of consecutive contracts;

Table 21: Results of the enquiry to TWC on working conditions (% of companies which answered the enquiry)

<i>Average Length of Temporary Work Contracts</i>	
Less than 3 months	41.2
3 to 6 months	35.3
6 to 12 months	17.6
NA	5.9
<i>Average Time linked to TWC</i>	
Less than 3 months	15.7
3 to 6 months	25.5
More than 6 months	51.0
NA	7.8
<i>Most frequent trajectory</i>	
Find alternative job	66.7
Are employed by user company	52.9
Go to job centres	7.8
Go to competitor company	41.2
Become unemployed	7.8

Source: Postal survey, 2000

- according to the information supplied by the TWC, it is unusual for unemployment to follow a temporary work contract; in most cases, temporary work is followed by contracting by the user company;
- the change from one temporary work company to another is also frequent, and is referred by 41.2% of the companies.

Nevertheless, it must be stressed that those views, namely on the most frequent trajectories of the temporary workers, are not shared by the unions representatives.

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