

# **Appendix**

## **TEMPORARY AGENCY WORKERS**

### **The complete surveys**

### **By country in alphabetical order**

## Belgium

### 1. Name of **Trade Union** and **Country**

Trade Union: ABVV Metaal

Region: Flanders

### 2. What kind of **legislation** or **agreement(s)** already exists in your country?

On the national level, we have a law concerning the policy of conditions for access to temporary work, guaranteeing the principle of user-pay (equal pay for temporary workers).

There is also a collective agreement (national level) on a controlling mechanism by the trade union.

Every 2 years, there is a negotiation concerning bonuses, mobility, extralegal wage supplements.

In the different branches, we also negotiate agreements specifically for temporary workers.

### 3. What has been done so far in your union/your country in terms of **implementing the new directive**? Do you already know if current restrictions on TAW in law and agreements will have to be removed?

On the one hand, equal pay was already inscribed in our agreements. Some restrictions in national law and agreements have to be rediscussed due to the new directive. For example: we have restrictions in the public sector that probably will have to be removed. Another example is that the use of temporary work is prohibited during a strike. Due to the implementation of the new directive, this prohibition is under discussion at the moment.

### 4. Do you have any idea about the **number of TAWs** in metal companies and the **percentage** they represent of the total number of **TAWs** in your country?

Before the economic crises, about 6% of the people employed in metal companies, were TAWs.

At this moment, we estimate this percentage at about 2%.

About 30%-35% of the total number of TAW's in Belgium are being employed in metal companies.

5. What **specific difficulties** do you encounter with TAW in metal companies?

It is difficult to monitor whether the reasons for employing a TAW is correct.

TAWs are often excluded from security and sanitarian regulations.

Abuse of flexible contract by the temporary work agency, in order to avoid paying for some benefits, such as paid holidays, sick leave, extra hours, ...

Temporary work is often used as a means of selection, although this is not allowed by Law.

Temporary work agencies incorporate a sanction in the contract with the users, is they engage a temporary worker during the first 4 months of employment.

6. Do you have any special **actions/negotiations/campaigns** in this domain?

We are member of the negotiation body of temporary workers.

We try to focus on temporary workers during our own branch negotiations.

We have a website focused on temporary work.

Every year in September, we organise, together with the confederation the Interim Day.

We train and try to make our job stewards aware of the specific problems of TAWs.

7. What actions – if any – do you undertake to **organise TAWs**? Are they organised in the union of the user company or in a specific union for TAWs?

The TAWs are organised in the union of the user company.

We distribute leaflets, agendas, social handbooks to TAWs.

## Belgium-2

### 1. Name of **Trade Union** and **Country**

Trade Union: ACV-CSC METEA

Region: Belgium

### 2. What kind of **legislation** or **agreement(s)** already exists in your country?

In Belgium we have a general legislation and also a national collective agreement on this matter.

These regulatory dispositions contain a certain number of prohibitions to work with T.A. Workers in certain sectors or in certain conditions. (f.eg. in case of strike)

### 3. What has been done so far in your union/your country in terms of **implementing the new directive**? Do you already know if current restrictions on TAW in law and agreements will have to be removed?

The government has made a list of all dispositions and regulations that exists within our country in all sectors (metal, chemicals, non profit, construction, and so on...). Now each sector has to do an investigation whether the regulatory dispositions are or aren't in conflict with the European Directive.

### 4. Do you have any idea about the **number of TAWs** in metal companies and the **percentage** they represent of the total number of **TAWs** in your country?

Figures

TAW all over the country, all sectors: 382.607 T.A. workers, per year.

The metalsector uses 1/3th of this number: about 127.000 T.A.Workers that are activ in the metalsector in one year. (2008 reference)

5. What **specific difficulties** do you encounter with TAW in metal companies?

The T.A.Workers do not always get the same pay as the workers of the user company. As a Trade Union we have to make a complaint at the temporary work agency. Mostly this kind of abuses is resolved rather quickly. (Somethimes these kind of mistakes are du to not knowing exactly what are the working and payconditions of a certain usercompany or a certain sector)

Another abuse is more persistent, because it's very difficult to handle. It is the abuse of "using" T.A.Workers, far much longer than acceptable. Even when the workvolume has grown for a certain time already, the usercompany keeps using the "Temporary agency contracts" in order to secure the open ended contracts of its own workers.... It is a difficult debate and a delicat exercise in balancing between the concerns of the own workers (long term jobsecurity) and the concerns of the T.A.Workers, who are left behind in a very pronounced "job insecurity";

6. Do you have any special **actions/negotiations/campaigns** in this domain?

What did we do about this abuse already in the past negotiations?

In the metalsector we became the right for the T.A.Worker that their time as a T.A.W. is taken into account for determining the labourcontractconditions (especially pay) when they are offered a fixed term contract or even an open ended contract within the user company itself. This means that their "career" as T.A.Worker is not lost when they get finely hired by the user company itself.

This means also that in case of individual or collectif dismissal, the time of notice will be longer, so there jobsecurity is increased.

In times of crisis (autumn 2008 / 2009) we even managed to guarantee these T.A.Workers a similar redundancy as a fixed term worker and also the same possibility to follow a course of "outplacement", to help them to find as quick as possible another job.

7. What actions – if any – do you undertake to **organise TAWs**? Are they organised in the union of the user company or in a specific union for TAWs?

When we as ACV-CSC METEA undertake some action, we usually aim at the usercompanies, because we are not competent to take direct action against temporary work agencies.

## Bulgaria

### 1. Name of **Trade Union** and **Country**

Trade Union: Trade Union "Metalicy", BULGARIA

Region: South-East region

### 2. What kind of **legislation** or **agreement(s)** already exists in your country?

There is no legislation regarding TAWs in Bulgaria

### 3. What has been done so far in your union/your country in terms of **implementing the new directive**? Do you already know if current restrictions on TAW in law and agreements will have to be removed?

There is a bill on TAWs and ongoing debate on its discussion

### 4. Do you have any idea about the **number of TAWs** in metal companies and the **percentage** they represent of the total number of **TAWs** in your country?

No data; in principle there are Taws in Bulgaria but their work is not regulated by the law

5. What **specific difficulties** do you encounter with TAW in metal companies?

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6. Do you have any special **actions/negotiations/campaigns** in this domain?

Active participation in the ongoing debate on the discussion of the bill regarding TAWs

7. What actions – if any – do you undertake to **organise TAWs**? Are they organised in the union of the user company or in a specific union for TAWs?

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## The Czech Republic

### 1. Name of **Trade Union** and **Country**

Trade Union: **OS KOVO**

Region: **Czech Republic**

### 2. What kind of **legislation** or **agreement(s)** already exists in your country?

*Law on Employment – regulates issuing licence for agency work activities and control activities including sanctions*

*Labour Code – regulates obligation of equal treatment (equal working and wage conditions for the core and agency workers) and allocation of the agency workers to the users*

### 3. What has been done so far in your union/your country in terms of **implementing the new directive**? Do you already know if current restrictions on TAW in law and agreements will have to be removed?

*The implementation process did not start yet.*

### 4. Do you have any idea about the **number of TAWs** in metal companies and the **percentage** they represent of the total number of **TAWs** in your country?

*In the metalworking industry there were around 16 000 agency workers employed in the period January – September 2009.*

*Number of agency workers in Q1 2009 in the Czech Republic amounted 22 437 persons.*

### 5. What **specific difficulties** do you encounter with TAW in metal companies?

***Non-observation of the equal treatment principle with the agency workers in working and wage conditions, especially in remuneration, working time, holiday and barriers for work.***

6. Do you have any special **actions/negotiations/campaigns** in this domain?

***Information materials about agency work, advisory and consultancy activities.***

7. What actions – if any – do you undertake to **organise TAWs**? Are they organised in the union of the user company or in a specific union for TAWs?

***OS KOVO structure is based on company organisation in the individual companies. Due to the fact that agency workers change the users company quite often it is difficult to organise them.***

Denmark

1. Name of **Trade Union** and **Country**

Trade Union: CO-industri

Region: Nordic

2. What kind of **legislation** or **agreement(s)** already exists in your country?

In the collective bargaining agreement for the manufacturing industry a special section is devoted to employees on fixed term contracts.

3. What has been done so far in your union/your country in terms of **implementing the new directive**? Do you already know if current restrictions on TAW in law and agreements will have to be removed?

During the recent collective bargaining round, the social partners agreed to start the process regarding the implementation of the new directive with an aim to have it implemented by 1. March 2011.

4. Do you have any idea about the **number of TAWs** in metal companies and the **percentage** they represent of the total number of **TAWs** in your country?

In the manufacturing industry TAW are rarely used and therefore they constitute a low percentage of the total number of TAW's in Denmark.

5. What **specific difficulties** do you encounter with TAW in metal companies?

The TAW's basically have the same rights in the agreements and legislation as employees with open-ended contracts. A few cases are reported where the rights of TAW's are not respected. These are the dealt with in the system of settlements and the labour court.

6. Do you have any special **actions/negotiations/campaigns** in this domain?

No

7. What actions – if any – do you undertake to **organise TAWs**? Are they organised in the union of the user company or in a specific union for TAWs?

No specific union for TAW's exist. The few TAW's in the manufacturing industry are organised in the trade union that corresponds with their training / education.

## The Netherlands

### 1. Name of **Trade Union** and **Country**

Trade Union: FNV Bondgenoten

Region: The Netherlands

### 2. What kind of **legislation** or **agreement(s)** already exists in your country?

#### **Collective Employment Agreement for Temporary Employees**

*2009 - 2011 remuneration and employment conditions*

*2009 - 2014 legal status, pension and training*

(copy attached)

**The Law on Flex & Security** (1999) provides the flexibility of labor (fixed contracts and temporary workfixed contracts by temporary work agencies

**The Law on labor allocation through intermediaries** (1998) regulates the liberalization of the labor market and give private employment and temporary work agencies unrestricted access to the labor market

### 3. What has been done so far in your union/your country in terms of **implementing the new directive**? Do you already know if current restrictions on TAW in law and agreements will have to be removed?

There are no new initiatives regarding the implementation of the directive because we already have legislation in accordance with the directive and we have a collective agreement for temporary work (since 1999). This CLA is consistent with the new directive

4. Do you have any idea about the **number of TAWs** in metal companies and the **percentage** they represent of the total number of **TAWs** in your country?

5% of ±700.000 temporary agency workers annual  
± 35.000 temporary agency workers annual are working in metal companies with an average duration of 25 weeks

5. What **specific difficulties** do you encounter with TAW in metal companies?

payment of proper wages under the CLA for the metal sector  
the opportunity for vocational training in the metal for temp workers

6. Do you have any special **actions/negotiations/campaigns** in this domain?

No  
(see below)

7. What actions – if any – do you undertake to **organise TAWs**? Are they organised in the union of the user company or in a specific union for TAWs?

We organise temp workers in the union of the user companies and organise their interests on two levels:

1. the level of the user companies and the CLA for the metal sector
2. the level of the temporary work agencies and the CLA for Temporary Agency Workers

## Norway

### 1. Name of **Trade Union** and **Country**

Trade Union: Fellesforbundet

Region: Norway

### 2. What kind of **legislation** or **agreement(s)** already exists in your country?

Legislation: There are a number of legal instruments regarding hiring of workforce in Norway. Our legislation is based on indefinite work contracts. Hiring is limited to extraordinary time limited needs.

Until 2000 we had a general ban on hiring of workforce, but companies could apply for permission from the authorities to use hired workers. The exception from the ban applied to the commercial sector and warehouses. In addition temporary workers could replace a specific person for a limited period of time. The ban was replaced by legislation which was as restrictive, with the exception that it was permitted to use temporary agencies where a written consent from the shop stewards in the hiring company existed. It is easier if a company hires from another production company.

Agreements: Most collective agreements have wording on how the shop stewards and the company should discuss and negotiate on hiring. Given the restrictive legislation we do not have a tradition on organising and concluding collective agreements with temporary worker agencies. Also we have a disagreement with the employers on what wages and working conditions should apply in a collective agreement with temporary worker agencies.

As the use of temporary workers has increased we have seen the need to promote demands in the ongoing collective bargaining round. Our demand is that temporary worker agencies should be covered by a national collective agreement with the possibility to sign agreements with the individual agency. These negotiations are going well and we hope that a new agreement will include the principals of the directive on temporary agencies on wages and working conditions in the hiring company.

3. What has been done so far in your union/your country in terms of **implementing the new directive**? Do you already know if current restrictions on TAW in law and agreements will have to be removed?

We expect that government will introduce a hearing shortly on the implementation of the new directive. The trade unions are in dialogue with government on what the directive will mean for our Norwegian traditions and legislation. The trade unions are concerned about continuing our legislation based on indefinite work contracts with the employer.

4. Do you have any idea about the **number of TAWs** in metal companies and the **percentage** they represent of the total number of **TAWs** in your country?

It is difficult to assess the use of temporary agency workers. What we have seen over the last years (before the crisis) is that especially in ship yards and off shore yards there has been a major increase in the use of temporary agencies. At some yards the number of workers from the agencies has been more than 50% of the total workforce at the yard.

5. What **specific difficulties** do you encounter with TAW in metal companies?

Especially foreign workforce, mostly from the new EU member states enters our workforce through temporary agencies. This means that the challenges we meet are the same as the general challenges of free movement of workers, social dumping and lack of communication.

In addition as mentioned it has been difficult to conclude collective agreements in these agencies.

It seems that the use of temporary agencies instead of using own workforce is all about renouncing employer responsibilities. The result is that dubious companies entering our work sites are often temporary agencies.

6. Do you have any special **actions/negotiations/campaigns** in this domain?

As mentioned this is a subject in the ongoing collective bargaining round. Fellesforbundet has for years had focus on the fight against social dumping and an important strategy has been and is to organise the workers in the temporary agencies and conclude collective agreements. This activity will continue in the years to come.

7. What actions – if any – do you undertake to **organise TAWs**? Are they organised in the union of the user company or in a specific union for TAWs?

Fellesforbundet has had recruitment as a top priority in the fight against social dumping over the last years. Organising temporary agencies has therefore been an area of priority. This has led to the signing of a couple of collective agreements with agencies. But as mentioned there are some unsettled questions regarding the signing of such agreements and this will be brought to the negotiating table.

The debate is directed towards organising the temporary agency workers in the union which organises the branch in which the temporary agency works. Also the debate touches on whether each collective agreement should expand to cover the temporary agencies or if we should conclude a specific collective agreement for temporary agencies.

Sweden

1. Name of **Trade Union** and **Country**

Trade Union: **Unionen**

Region: **Sweden**

2. What kind of **legislation** or **agreement(s)** already exists in your country?

**The Private Employment Agencies and Temporary Labour Act, collective agreements, Employment Protection Act (the right to re-employment when one has been laid-off), the Directive (not yet implemented in Sweden)**

3. What has been done so far in your union/your country in terms of **implementing the new directive**? Do you already know if current restrictions on TAW in law and agreements will have to be removed?

**Is currently being investigated.**

4. Do you have any idea about the **number of TAWs** in metal companies and the **percentage** they represent of the total number of **TAWs** in your country?

N/A

5. What **specific difficulties** do you encounter with TAW in metal companies?

N/A

6. Do you have any special **actions/negotiations/campaigns** in this domain?

**National negotiations are currently being held.**

7. What actions – if any – do you undertake to **organise TAWs**? Are they organised in the union of the user company or in a specific union for TAWs?

**White-collar workers have their own collective agreement on temporary agency work which includes all white-collare workers, not just within industry.**