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The situation of migrant workers in temporary employment agencies (TEAs)

Report
Committee on Migration, Refugees and Population
Rapporteur : Mr Doug HENDERSON, United Kingdom, Socialist Group

Summary

The employment of migrants through temporary employment agencies (TEAs) has grown rapidly in recent years as a response to globalisation and increased needs for changing labour requirements. While the advantages of such services to the European labour market are many, certain employers use employees from TEAs to cut costs and increase flexibility at the expense of national labour standards and fundamental rights of workers.

In terms of international standards to be applied, the report recalls the provisions of Article 19 of the revised European Social Charter; the International Convention on the Protection of All Migrant Workers and Members of Their Families, the ILO Conventions on migrant workers and private employment agencies (143 and 181), the Palermo Protocols and the Council of Europe Convention on the Legal Status of Migrant Workers and the Convention on Action against Trafficking in Human Beings.

The Assembly recommends that Council of Europe member states: establish the principle of equal treatment of temporary migrant workers in terms of wages, working conditions and social rights; regulate the work of temporary employment agencies through registration and licensing schemes; allocate more resources for labour inspectorates; and apply sanctions for TEAs and user enterprises in breach of regulations.

A. Draft resolution

1. The increased mobility of workers and services both in the European internal market and among the CIS countries, will inevitably lead to new patterns of employment in a wider Europe. Problems, though of different nature, exist both for regular and irregular recruitment and they are likely to increase due to the growing sector of national and trans-national temporary recruitment.

2. Poverty, lack of rule of law, lowering of labour standards, propensity of criminal groups and corruption in certain countries in particular in Eastern Europe and many CIS countries all contribute to an increase in irregular recruitment, forced labour and human trafficking.

3. The phenomena of regular and irregular trans-national temporary recruitment is growing also in Central and Eastern Europe, with cheaper migrant labour coming from further east and south east.

4. Recruitment through legitimate temporary employment agencies is only recently emerging in both regions. Without a social partner capacity for effective self-regulation, legislation is needed to advance the reputation of this employment form to both user companies and individual temporary agency employees. Strong regulation and enforcement mechanisms (licensing and labour inspectorates) could help legitimise the activity of temporary employment agencies in such start-up situations.

5. In the context of the European Union, problems are of a different nature and consist of regulating mainstream business of temporary employment agencies to safeguard labour standards and to create a level playing field for the internal market.

6. The United Kingdom, Ireland and Sweden applied an open door policy with regard to employment of workers from the new EU Member States at the time of the enlargement to EU-25. Transitional agreements now have to be reached with Bulgaria and Romania. It is therefore necessary to establish clear rules and seek greater harmonisation within the internal market. In this regard, the Parliamentary Assembly welcomes the efforts made by the European Parliament and the European Council to reach consensus on the future Services Directive.

7. Some Council of Europe member states have already adopted rules that ensure that temporary migrant workers receive the same treatment in terms of wages, working conditions and social rights as the local labour force in their respective countries. It is important therefore – especially in view of the present and foreseen increase in the activities of the temporary employment agencies – that in all Council of Europe member states, basic rules exist that ensure equal treatment and basic rights of temporary and migrant workers.

8. Article 19 of the revised European Social Charter already provides guideline for some of the basic standards for the protection and assistance to migrant workers and their families, namely treatment not less favourable than that of nationals in respect of remuneration and working conditions; membership of trade unions; enjoyment of the benefits of collective bargaining; and accommodation.

9. Moreover, the International Convention on the Protection of All Migrant Workers and Members of Their Families, the ILO Conventions on migrant workers (C143) and on private employment agencies (C181), the Palermo Protocols and the European Convention on the Legal Status of Migrant Workers and the Council of Europe Convention on Action against Trafficking in Human Beings (CETS no 197) provide additional standard setting and a good framework for cooperation and joint action between member states of the Council of Europe and wider.

10. In addition, the Assembly recalls its Resolution 1509 (2006) and Recommendation 1755 (2006) on "human rights of irregular migrants" and Resolution 1501 (2006) and Recommendation 1748 (2006) on "working migration from the countries of eastern and central Europe: present state and perspectives".

11. Finally, the Assembly welcomes the decision of the European Committee on Migration (CDMG) to focus the theme of the forthcoming 8th Ministerial Conference for European Ministers responsible for migration and integration affairs on labour migration and co-development. The Ministerial Conference will create an opportunity to reinforce cooperation mechanisms between the countries of origin, transit and destination in order to improve together regulation and management of labour migration in Europe.

12. In the light of the above, the Parliamentary Assembly invites the member states of the Council of Europe to :

12.1. sign, ratify and implement the International Convention on the Protection of All Migrant Workers and Members of Their Families; the ILO Conventions on migrant workers (C143) and on private employment agencies (C181); the Palermo Protocols;

12.2. sign, ratify and implement the European Convention on the Legal Status of Migrant Workers (CETS No 93) and the Council of Europe Convention on Action against Trafficking in Human Beings (CETS No 197);

12.3. sign, ratify and implement the revised European Social Charter (CETS No 163) and its Article 19;

12.4. enforce existing labour laws and regulations with regard to trans-national labour recruitment and protection of migrant workers;

12.5. establish the principle of equal treatment of temporary workers and migrant workers in the national labour market;

12.6. where such mechanisms do not yet exist, regulate providers (temporary employment agencies) through registration and licensing schemes;

12.7. promote the use of self-regulation and drafting of national codes of conduct;

12.8. establish clear liability of temporary employment agencies and user enterprises;

12.9. apply dissuasive and proportionate sanctions both for temporary employment agencies and user enterprises in breach of regulations;

12.10. establish cooperation between labour inspectorates, trade unions, temporary employment agencies, NGOs and police with a view to identify gangmasters and abusive practice in breach of national labour regulations;

12.11. allocate more resources for labour inspectorates;

12.12. continue efforts to tackle irregular migration;

12.13. establish international cooperation between labour inspectorates, police and border guards;

12.14. make information on migrant workers rights and national labour standards easily accessible to migrant workers;

12.15. enable migrant workers to claim more easily their rights through legal assistance and recourse to an Ombudsman's office;

12.16. encourage trade unions to involve migrant workers and defend their rights.

B. Draft recommendation

1. The Parliamentary Assembly refers to its Resolution …… (2006) on the situation of migrant workers in temporary employment agencies (TEAs).

2. Therefore, the Assembly recommends that the Committee of Ministers ask the relevant intergovernmental committees to develop co-operation programmes with the International Labour Organization (ILO) and the European Union in order to :

2.1. research existing patterns of abusive practice in trans-national temporary work recruitment;

2.2. assist member states, particularly non-EU member states, in developing and enforcing strategies to combat irregular recruitment and trafficking;

2.3. assist member states, particularly non-EU member states, to regulate labour recruitment and to apply efficient enforcement mechanisms (labour inspection, dissuasive sanctions, penalties including criminal prosecution);

2.4. assist member states to develop information campaigns on migrant workers rights and conditions of work.

C. Explanatory memorandum by Mr Doug Henderson, Rapporteur

I. Introduction

1. Nearly all countries are concerned by migration, whether as sending, transit, or receiving countries, or as a combination of these. Greater mobility through international migration has become an intrinsic feature of globalisation.

2. Close to 200 million people are migrants today. This represents approximately 3% of the world population. Although the share of migrants in global population numbers may not seem high, they have a strong presence and visibility in social, economic and political terms, particularly given the unaccounted share of irregular migrants.

3. Migration flows are today principaly driven by labour migration - concerning both regular and irregular migrants - many of whom make use of temporary employment agency (TEA), of some kind.

4. The report covers two rather distinct situations in Europe : on the one hand, occurring cases of discriminatory treatment of migrant workers in the European internal market, which is nevertheless increasingly regulated; and on the other hand, cases of human rights violations which result from illicit and clandestine labour recruitment (trafficking and slavery) mainly in non-EU countries, due to unregulated labour markets.

5. Whilst the work of temporary employment agencies in countries of the European Union is regulated either by national and European regulation, or self-regulation through agreed codes of conduct, it is however necessary to tighten up labour inspection and licensing control to ensure equal treatment and compliance with labour standards.

6. Temporary employment agencies are only an emerging phenomena in the labour markets outside the Union, particularly in Eastern Europe. Lack of regulation, recruitment structures and enforcement mechanisms (police action, labour inspection, licensing, etc.) therefore creates fertile ground for criminal activities, undocumented work and exploitation of migrant workers.

7. Measures proposed to tackle those two different situations, naturally differ.

II. European labour market and advantages of TEAs

8. The leasing of labour force through Temporary Employment Agencies (TEAs) has grown rapidly in recent years as a response to globalisation in general and countries' increased need for changing labour requirements. The advantages of such services to the European labour market are several. The most obvious one is greater mobility of labour within the inner market of the EU – a market comprised of roughly 460 million people in the 25 EU-nations and the 3 EEA-EFTA nations. Proper use of the services of TEAs makes a significant contribution in meeting the increased demands for greater occupational mobility of the workforce within the EU inner market. This can stimulate economic growth and profitability through increased competitiveness.

9. The advantages provided to the labour market by the TEAs are several. Traditionally they have contributed to better labour force mobility through several legitimate channels. They satisfy needs not adequately covered by public agencies due to the growing complexity in the interplay between demand and supply of skills. They have brought vacancies to the surface in the open market, and served to reduce the time needed to fill vacancies. Often the TEAs quickly sense changes in the labour market requirements and are thus able to avoid the delays and imbalance which have at times been experienced in the past. Such agencies have assisted the market in matching supply and demand of skills through relevant selection and recruitment methods.

10. TEAs have helped reduce the time of deployment from one job to the other and have added to the mobility of the labour force. The TEAs have been a bridge between unemployment and permanent employment by providing temporary assignment and thus ensured gradual incorporation into the labour market for both unemployed and young people entering the market for the first time. Recent research has also shown that TEAs

provide a viable route for immigrants into the labour market. In short, TEAs have provided important labour flexibilities to meet the demands of both workers and user enterprises.

III. Overview of the problem

i. Examples of discriminatory temporary labour recruitment in the European Internal Market

11. However, certain companies are using temporary agency work to cut costs and increase flexibility at the expense of national labour standards and fundamental rights of workers.

12. According to the European Trade Union Confederation (ETUC), the temporary employment agency work is "accident prone" to abuse of migrant workers' rights; to unfair competition; and exploitation. Some temporary recruitment agencies attempt to sidestep workers' basic rights and compel them to sign hiring-contracts that allow the employer to: pay much lower wages than are customary in the host country; administer longer working hours than is customary; circumvent traditional benefits such as holidays and extra-time.

13. There are significant examples of failure to comply with European Union standards, some of which are mentioned in appendix I. According to ETUC, workers from the new EU member states are even more exposed to abuse, not to mention undocumented workers from outside the European Union.

14. At the Committee hearing (Brussels, 21 March 2006), the Migrant Rights Centre Ireland (MRCI) presented the particular case of work exploitation and bonded labour concerning fifteen workers from Latvia and Ukraine who have been employed on a mushroom picking farm in rural Ireland. The group came to Ireland through local employment agencies in Latvia and Ukraine, which charged excessive fees ranging from 1800 to 2500 euro for information provided, the cost of administration and processing of a work permit. Most of the group borrowed money from family, friends, and loan sharks in order to pay for such excessive fees and as a consequence arrived in Ireland in the situation of debt.

15. In some cases the employer traveled to Ukraine to 'handpick' perspective workers who were particularly vulnerable (no knowledge of English; less articulate; no experience in the agricultural sector, etc.). None of the workers received any information from the "employment agencies" about Ireland, the place of employment, their employment rights, nor any information on the work permit procedure. The "agencies" had license numbers attached to their advertisements in the local papers, but it was difficult to ascertain whether this was a legitimate license by the Department of Employment to act as an employment agency.

16. The working conditions described by the mushroom pickers made apparent that the employer had been in breech of many pieces of Irish employment legislation and that they experienced workplace exploitation :on average they worked 10 to 17 hours per day, and in some cases 100 hours per week. A day off was given with great reluctance. There have been examples of people being exposed to chemicals and had developed allergies, hair loss, skin abrasions, nausea and shortness of breath. The accommodation consisted of a bunk bed in a converted utility room in a two-bedroom house shared by six. The majority of workers became undocumented, since the employer did not apply for a renewal of their permits, putting them in the situation of dependence, exclusion and extreme vulnerability. When leaving the farm they were undocumented, unemployed, with no money or accommodation.

17. The Migrant Rights Centre Ireland (MRCI) was involved over a two-year period in supporting this group of workers to regularise their legal status and also to assert their legal rights. Thirteen of the group took a legal case against their former employer in the Labour Relations Commission and Employment Appeals Tribunal. Eventually the employer offered compensation to settle the matter outside of court. According to the Migrant Rights Centre Ireland (MRCI) experience, this case is not an isolated incident of exploitation in the workplace in Ireland. It is particularly prominent in the more poorly regulated and lower paid sector of the labour market.

18. The Irish Department of Enterprise, Trade and Employment notified the Rapporteur[1] that they are aware of particular concerns with regard to the alleged practices of some employments in the mushroom industry. The

[1] Note prepared by the Department of Enterprise, Trade and Employment on the request of the Oireachtas Interparliamentary Office, on behalf of Senator Pascal Mooney, for information on the situation of migrant workers in temporary employment in Ireland; 27 September 2006.

Department's Inspectorate has undertaken specific campaign to this regard in the course of 2006. Ireland has a comprehensive body of employment legislation, which are administered by Employment Appeals Tribunal, the Labour Court, the Rights Commissioner Service and the Labour Inspectorate. Moreover, the Irish Government has recently initiated the Social Partnership Agreement "Towards 2016", which sets out a number of commitments with regard to employment standards and compliance. The Parties to "Towards 2016" have agreed on the need for the improved regulation of employment agency and agency workers. New legislation will be published by the end of 2006, reinforcing the existing TEA system and requiring all employment agencies established and/or operating in Ireland to hold a licence. The new legislation will also put in place statutory Code of Practice covering standards of behaviour for employment agencies. The above provisions will take into account standards set out in the ILO Convention No.181.

ii. Recruitment of migrant workers outside the European Union

19. In 2003, the ILO Special Action Programme to combat forced labour carried out a survey among returned migrant workers in Albania, Moldova, Romania and Ukraine. The research shows that recruitment plays a key role in these modern forms of forced labour as, for example, when workers are held in the situation of debt bondage to pay off a recruitment fee. Half of the returned migrants who took part in the survey, had experienced certain forms of coercion while working abroad, such as physical and sexual violence, restriction of the freedom of movement or retention of identity documents combined with threats. Only 12% of respondents used formal employment agencies.

20. According to International Association Labour Migration (IALM), a network of private employment agencies in Russia, there are about 5 million irregular workers in the Russian Federation, 1 million in Ukraine and 15 million in Central Asia in transit to Russia. This is a very lucrative sector for criminal groups. Today, Russia has a complex system of recruitment both through a legal system of established TEAs and an informal system in the black economy. There are around 190 TEAs in Russia and 400 in Ukraine. Only 10% are organised in a network. Since 2005 the Russian Federal government applied the visa free regime for CIS countries which increased the mobility of workers on the one hand, but lack of regulation and enforcement mechanisms created on the other hand fertile ground for criminal activities, undocumented work and exploitation of migrant workers.

21. In the Russian Federation, for example, most migrant workers are recruited informally and scam operations are widespread. Only 4% indicated having used official channels of recruitment.

22. Abuses in the recruitment process are also gender specific. Women find it often more difficult to access formal recruitment channels, either through private recruitment agencies of public employment services. According to an ILO survey, female victims of trafficking indicated that they have been recruited through intermediaries or different types of cover agencies, such as modelling and entertainment agencies, tourist agencies or au pair agencies.

23. These examples illustrate practices at the fringes of the labour market. They most often escape the normal labour inspection as they operate in a grey zone between organised crime, illegal employment and sub-standard work. There is little research into the extent of these activities. Many recruiters are involved in other business activities or change their profile when transaction costs increase, usually in the case of tighter controls. While "soft methods" of control, such as administrative sanctions, combined with positive incentives may be sufficient to clean up mainstream businesses, there have to be more efforts to prosecute those who are involved in criminal operations.

IV. International standards in respect of labour migration, recruitment and trafficking

24. The International Convention on the Protection of All Migrant Workers and Members of Their Families (1990), the ILO Migrant Workers Convention (C143) and the recent ILO Private Employment Agencies Convention (C181) provide general standards at the global level.

25. International Convention on the Protection of All Migrant Workers and Members of Their Families seeks to establish minimum standards that State parties should apply to migrant workers and their families, irrespective of their migratory status. The Convention contains the most comprehensive definition of migrant workers, including undocumented migrant workers, acknowledging that irregular migrants are frequently exploited and

face serious human rights violations, therefore requiring appropriate action to prevent and eliminate clandestine movements and trafficking (Article 68) and to secure the protection of their human rights.

26. The Convention innovates in defining the rights which apply to certain categories of migrant workers and their families, including frontier workers, seasonal workers, itinerant workers, migrants employed for a specific project and self-employed workers. The Convention also includes a number of rights addressing specific protection needs in the light of vulnerability of migrants. Article 15 for instance, protects migrant workers from the arbitrary deprivation of property, while Article 21 contains safeguards against confiscation, and attempts to destroy identity documents, documents authorising entry, residence or establishment in the national territory or work permits.

27. Article 25 and 26 establish respectively: that migrant workers shall enjoy treatment not less favourable than that which applies to nationals of the State of employment in respect to remuneration and other conditions of work and terms of employment; and the right to take part in trade union activity.

28. The Convention was signed in 1990 and has entered into force in July 2003. Amongst 43 states who have signed or ratified the Convention, there are regrettably only three Council of Europe member states (Bosnia and Herzegovina; Serbia and Montenegro; and Turkey), and none of the major industrialised receiving countries. According to the Human Rights Watch, immigration countries have been reticent about joining the Convention for fear that it may afford too many rights and entitlements to undocumented migrant workers, despite the important contribution migrant workers make to their economies.

29. The ILO Migrant Workers Convention, another international benchmark, seeks to regulate migration in abusive conditions (Articles 1-9) and sets the principle of equal opportunity for regular migrant workers in respect of employment and occupation, of social security, of trade union, of cultural rights and of individual and collective freedoms (Article 10). More specifically, Article 12 (g) requires Signatory Parties to “guarantee equality of treatment, with regard to working conditions, for all migrant workers who perform the same activity whatever might be the particular conditions of their employment”.

30. The more recent ILO Private Employment Agencies Convention (1997) provides a definition of private employment agencies that is broad enough to cover a whole range of recruiters. In particular article 1(c) refers to “other services relating to job seeking, determined by the competent authority after consulting the most representative employers’ and workers’ organisations, such as the provision of information, that do not set out to match specific offers of and application for employment.” This definition could encompass some of the agencies that pose as travel, entertainment or professional career agencies through which people are trafficked.

31. According to the ILO, national legislation and regulations regrettably hardly ever specify these various types of agencies. Where a licensing system is in place, it usually targets easily identifiable private employment agencies (PEA), whereas, others are simply required to register with the state tourism authority or like any other business (i.e. travel agencies, entertainment, fashion or model agencies).

32. Convention 181 defines private employment agencies as “any natural or legal person”. This may cover individual recruiters who have not set up a registered or licensed business. In article 2 (2) it is stipulated that : “this Convention applies to all categories of workers and all branches of economic activity”, with the exception of seafarers. In practice, however, many informal economic activities and individual recruiters escape state regulations and are difficult to monitor.

33. Even though the Convention and Recommendation 188 provide some guidance on the types of abuses that should be eliminated, they give little indication of how this can be done. Reference is made to laws and regulations, which provide for penalties, including prohibition of those private employment agencies, which engage in fraudulent practices and abuses (article 8.1). Penalties are not specified any further, and it is unclear whether criminal sanctions have been considered.

34. It continues to be of concern that despite the wide consensus during drafting and adoption of the 181 Convention and its relatively “modern” features, few Council of Europe member states have ratified it to date : Albania, Belgium, Bulgaria, Czech Republic, Finland, Georgia, Hungary, Italy, Lithuania, Moldova, the Netherlands, Portugal and Spain.

35. The Palermo Protocols may provide appropriate and effective criminal sanctions against fraudulent recruitment practices at the international level and could be used in conjunction with the provisions of the International Convention on the Protection of All Migrant Workers and Members of Their Families and the two ILO Conventions C143 and C181.

36. The Palermo Protocols (November 2000) consist of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children and the Protocol against Smuggling of Migrants by Land, Sea and Air, both supplementing the UN Convention against Transnational Organized Crime. The Palermo Protocol definition of trafficking covers many forms of abusive recruitment. State Parties are required to make these activities criminal offences when committed internationally (Article 5.1).

37. In Europe, major source countries of trafficking victims, such as Ukraine and Moldova, having signed and ratified the Palermo Protocols, were among the first to introduce new legislation and prosecute traffickers. Prosecutors often target the recruiters since employers are at the other end of the trafficking chain and out of reach for national enforcement agencies in countries of origin.

38. Increasing cooperation between source and destination countries is crucial.

V. Regulation at the European level : temporary recruitment of migrant workers

39. While the international conventions are more general in scope in order to cover diverse situations globally, European countries need more specific measures to regulate the mainstream business of temporary trans-national recruitment in order to avoid cases of social dumping and lowering of labour standards.

40. Prior to entering into the ongoing regulation process at national level and at the level of the European Union, it is necessary to mention the three Council of Europe instruments in respect of equal treatment of migrant workers and action against trafficking in human beings.

41. The purpose of the Council of Europe Convention on Action against Trafficking in Human Beings which was recently adopted at the Third Summit of the Council of Europe in Warsaw (May 2005) is threefold : to prevent and combat trafficking; to protect victims of trafficking; and to promote international cooperation and action against trafficking. The definition of trafficking is wide in scope and covers recruitment for the purpose of exploitation, including forced labour. The required prevention measures are of legislative; administrative; educational; social; cultural nature and involve policy makers, public authorities, police, border guards, teachers, media and the civil society. Particular attention is paid to protection, repatriation and return of victims. Article 18 requires, where necessary, legislative measures to establish criminal offences. Article 23(1-4) sets out effective, proportionate and dissuasive sanctions including monetary sanctions, confiscation of property, closure of establishment, deprivation of liberty and extradition.

42. The Council of Europe Convention on the Legal Status of Migrant Workers (1977) sets out the rights and entitlements of migrant workers. It covers similar ground to the European Social Charter although it is more specific in scope. The Convention came into force in May 1983.

43. The Convention defines migrant workers, in Article 1, paragraph 1, as nationals of Contracting Parties authorised to reside on the territory of another Council of Europe member states to take up paid employment. This provision therefore excludes migrant workers from outside Council of Europe member states as well as workers who have not been authorised to reside in the other Council of Europe states for the purposes of employment, for example those who have moved for the purposes of education but have taken up part-time employment and irregular migrant workers. Paragraph 2 of Article 1 excludes a number of types of workers from the scope of the Convention; these include seaman, seasonal workers and persons undergoing training. The Convention is therefore aimed at workers who intend to settle in different Council of Europe States on a long-term basis. Article 16 ensures equal treatment of migrant workers with nationals of member states in relation to conditions of work.

44. Article 19 of the revised European Social Charter stipulates the right of migrant workers and their families to protection and assistance. Paragraph 19.4 specifies further that the “Parties undertake to secure for workers lawfully within their territories, treatment not less favourable than that of their own nationals in respect of remuneration and working conditions; membership of trade unions; enjoyment of the benefits of collective

bargaining; and accommodation". Article 19 is currently under review which will be subject of a separate report of the Committee in due course.

45. Under the collective complaints procedure, European Trade Union Confederation (ETUC), Union of Industrial and Employers' Confederations of Europe (UNICE), International Organisation of Employers (IOE), and national employers' organisations, trade unions and certified NGOs may lodge complaints of violations of the Charter with the European Committee of Social Rights. This monitoring mechanism aims to strengthen the enforcement of the European Social Charter nationally.

46. At the level of the European Union, the European Union Charter of the Fundamental Social Rights of Workers provides that the completion of the internal market must lead to an improvement in the living and working conditions of workers in the European Community (point 7). This process will be achieved by harmonising progress on these conditions, mainly by forms of work other than permanent contracts such as fixed term contract work, part-time work, temporary work and seasonal work, irrespective of whether a posting is national or trans-national.

47. Regulation of trans-national temporary work within the European Union has therefore been gradually evolving through: Posting of workers EU Directive (19/71/EC) and a recently adopted guideline (COM(2006)159 final); the ongoing negotiation of EU services directive proposal (COM(2006)160 final) and finally, through the discussion which lead to the aborted proposal for EU Directive on working conditions for temporary agency workers (COM(2002)149; revised proposal COM (2002)701).

48. In the light of the ongoing negotiation process of the services directive, the European Commission has published, in April 2006, Guidance on the posting of workers in the framework of the provision of services (COM(2006)159 final).

49. The Posting of Workers Directive 96/71/EC identifies the mandatory rules in force in the host country that are to be applied to posted workers[2] by establishing a hard core of terms and conditions of work and employment to be respected. The Directive defines the provision of trans-national service as either "performance of work by an undertaking on its account and direction", or as hiring-out of workers. The Directive has a clear social objective : that posted workers are guaranteed during the period of posting the respect by their employer of certain protective rules of the EU Member State to which they are posted. These rules include in particular :

- maximum work periods and minimum rest periods;
- minimum paid annual holidays;
- minimum rates of pay;
- the conditions of hiring-out of workers, in particular the supply of workers by temporary employment agencies;
- health, safety and hygiene at work;
- protective measures with regard to the terms and conditions of employment of pregnant women, of children and of young people;

50. The evidence gathered in the Commission's review of the implementation of the Posting of Workers Directive, shows that there is considerable scope for improving access to information, administrative cooperation and monitoring of compliance.

51. The Guideline also clarifies, on the basis of the case law of the European Court of Justice, the following requirements :

- to have a representative on the territory of the host country;
- to obtain authorisation from the competent authorities of the host country or to be registered with them;
- to make a declaration (on the workers who have been posted, the type of service they will provide, where and for how long);
- to keep and maintain social documents on the territory of the host country and under the conditions which apply in its territory.

[2] Article 2.1 Definitions : "posted worker" means a worker who, for a limited period, carries out his work in the territory of a Member State other than the State in which he normally works.

52. The European Court of Justice held that a number of additional conditions which certain EU member states imposed with regard to the posting of workers from third countries were excessive. On the basis of existing case law, the European Commission concludes that the "host country may not impose administrative formalities or additional conditions on posted workers from third countries when they are lawfully employed by the service provider established in another EU member state, without prejudice to the right of the host country to check that these conditions are complied with in the EU member states where the service provided is established".

53. Moreover, the Posting of Workers Directive imposes clear obligations as regards cooperation between national administrations, including the creation of a monitoring authority that can reply to a reasoned request on, for instance, whether the company providing trans-national services is truly established in the EU member state of origin or to a request for documentary evidence to establish whether the worker is considered "a worker" according to the legislation of the host country.

54. EU member states have an obligation to guarantee certain terms and conditions to workers posted to their territory under article 3 of the Posting of Workers Directive, and to take measures to prevent and combat any unlawful behaviour by service providers. In this context, the European Court of Justice expressed an opinion on a system of joint and separate liability for general and principal contractors. The above is a fundamental condition for establishing a fair competition, which improves public perception of the posting of workers in the context of the cross-border movement of services.

55. Posted workers and organisations representing them (trade unions; lawyers; NGOs) should have the possibility to complain directly to the relevant authority in the host country, and enforcement should be able to be prompted by complaints by workers or competing service providers. This means that monitoring authorities and labour inspectorates should have the necessary resources and powers to follow up on such complaints. The European Commission commits to work with EU member states in order to improve trans-national cooperation of labour inspectorates.

56. The Directive proposal on working conditions for temporary agency workers (COM(2002)149, 20 March 2002) attempted to go further than minimum standards in the Posting of Workers Directive, by establishing the principle of non-discrimination, including for pay, between temporary agency workers and comparable workers in the user enterprise. The principle of non-discrimination existed already in 11 EU Member States (before 2004 EU Enlargement).

57. Considerable flexibility was made available since exceptions to the general principle of non-discrimination were possible :

- for objective reasons (non-discrimination only applied in comparable situations);
- where collective agreements already provided adequate protection;
- where temporary agency workers had an open-ended contract with the agency;
- where no comparable worker nor any collective agreement existed, either applicable to the user enterprise or the temporary agency.

58. The Commission's directive proposal was motivated by a concern that temporary agency workers may be less favourably treated than they would have been, had they been employed by the user company.

59. The directive proposal therefore included an additional set of rules to improve the situation of temporary workers, namely : access to information on job vacancies in the user enterprise; access to social services of the user company; access to training organised in the temporary employment agency or the user enterprise; and workers' representation in a temporary agency, given a certain threshold of temporary workers employed by the TEA.

60. While supporting the need for a European Directive on Agency Work, Euro-Ciett (International Confederation of Temporary Work Business) argued that the Directive should balance two key objectives : protecting agency workers and enabling the agency work industry to fulfil its job creation potential in line with the EU employment creation objectives. Euro-Ciett insisted that the basis for a Directive should be the specific nature of the triangular relationship between the agency, the agency worker and the user enterprise; recognising

the agency and not the user enterprise as the employer. It therefore requested to reinstate the notion of an integration period of the agency worker in the user enterprise before user comparability could apply.

61. The issue of contention and the reason for a logjam of negotiations was primarily the definition of qualifying period (minimum length of assignment to the user enterprise). Some EU member states argued that a temporary worker should be working for a year before gaining protection; some proposed six months qualifying period and others considered that protection should be granted from day one. The proposed threshold of 6 weeks meant that a large percentage of temporary workers would nevertheless escape protection due to generally very short periods of assignment in a number of Member States.

62. Given the new context of the Enlarged Union and increasing opportunities for temporary workers from the new EU Member States to be recruited trans-nationally, the European Trade Union Confederation (ETUC) and affiliated trade unions request the European Union to re-open negotiations in order to establish minimum standards and level playing field for companies to avoid undercutting of pay and working conditions in this sector.

63. The recent amended proposal for the EU services directive (COM(2006)160 final) represents a breakthrough in safeguarding national labour laws and social security legislation, by establishing the principle that the standards of the country where a service is delivered should apply, replacing the controversial "country of origin" principle. This creates a favourable context for re-considering minimum level of harmonisation with regard to temporary assignments in national and trans-national context.

VI. Regulation and self regulation of TEAs in member states

64. At the Committee hearing in Brussels (21 March 2006) Euro-Ciett argued that temporary employment agencies already operate within a clear and strict legal framework, based internationally on the ILO Convention 181, EU Posting of Workers Directive and at national level based on a large range of labour laws and/or collective agreements, which are inspired by the principle of balancing protection of workers and flexibility of the labour market.

65. The European Foundation for the Improvement of Living and Working Conditions, has recently published a report on "temporary agency work in an enlarged European Union" (spring 2006) which outlines the nature and the extent of temporary agency work, different levels of statutory regulation and self-regulation in 25 member states of the European Union, Bulgaria, Romania and Norway.

66. While data are limited for the new EU member states and two acceding countries, the available figures for EU15 and Norway show that the sector is small in relative terms, accounting for only 1-2% of employment in most cases. However, this represents some 2.5 to 3 million employees, employed by approximately 20 000 firms, in a segment with a likely annual turnover in excess of €75 billion across the 16 countries concerned. In terms of occupational profile, temporary agency work is a phenomena in manufacturing (Austria, France, the Netherlands and Portugal); and in service sectors (Spain, Sweden and the United Kingdom). Belgium, Denmark, Finland and Italy have both manufacturing and service sectors covered.

67. In terms of statutory regulation, countries can be divided in two broad groups : Belgium, Denmark, France, Germany, Ireland, the Netherlands, Norway and the United Kingdom have long-established legislative frameworks. The second group – Austria, Luxemburg, Portugal, Spain and Sweden – introduced specific legislation from the late 1980s until the turn of the century. As the temporary agency work has grown, in many cases the law has been amended with a view to extending employment protection and/or liberalising the circumstances in which such contractual policy may be used. These developments are summarised in *Appendix III*.

68. Statutory regulation generally covers the definition of a legal status of temporary agency worker; licensing and monitoring mechanisms required; possible limits on the sector or occupation, maximum contract duration and successive contracting; and employment protection measures for individual employees.

69. The Netherlands was the first country in Europe to introduce the licensing scheme in 1965. However, the Labour Market Intermediaries Act (WAADI) which came into force in 1998 abolished the long established licensing system and a number of restrictions relating to placement, maximum duration, and worker deployment.

Other rules remained, such as prohibition of posting temporary agency workers in user firms undergoing a strike, the dual responsibility of user firms and temporary employment agencies for the payments of social premium and taxes, and an equal wages clause for temporary agency workers.

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

71. In Ireland, the Employment Agency Act 1971 introduced a licensing system to ensure that TEAs were reputable companies. In 1993, the Unfair Dismissal Act extended unfair dismissal protection to agency workers. The law declared temporary agencies workers to be employees of the user enterprise.

72. In Germany, the 1972 Temporary Employment Act (Arbeitnehmerüberlassunggesetz) required a written contract between the agency and the user enterprise as well as a written document setting out the key terms and conditions for the employee. The Act restricted the duration of assignment to 3 months although this was later progressively extended to 24 months by 2001. The revision of the Act in 2002 lifted the duration and other restrictions, but required TEAs to guarantee their workers the same pay and employment conditions as permanent staff in the user enterprise, although exceptions were permitted in case of collective agreements.

73. The first legislation in France was introduced in 1972, and since has been amended several times with regard to permissible reasons for client use of TEAs and duration of assignment. Social Cohesion Act of 2005 extended TEAs business to act as providers of placement services for unemployed workers, and to offer jobs with fixed-term and open ended contracts.

74. In the United Kingdom, the Employment Agencies Act 1973 introduced a licensing system with a complaints and enforcement mechanisms added to it in 1976. Further regulations were introduced in 2003 to respond to the growth of TEA sector by simplifying requirements in order to increase flexibility and to decrease costs for employers. It extended restrictions on fees, made TEAs responsible in terms of health and safety in the user enterprise, and required agencies to inform workers of details of their terms and conditions of employment.

75. The regulation in Belgium is provided by the 1987 law on temporary work, temporary agency work and the hiring out of workers to clients. It provides for the protection of temporary workers (considered as a regular worker who benefits from all legal protection under the labour laws); for protection of permanent workers (limiting the duration of assignment); and for the protection of user company through the lincensing system for TEAs. In practice the social partners have a prominent role both through collective agreements and by taking part in the Joint Commission for temporary work and the National Labour Council.

76. In Portugal, the regulation is provided by decree-law no.358.89 which covers working conditions, payment and other workers' rights, limits in duration, and the social responsibilities of TEAs. It was amended in 1999 to include a new licensing system, increased opportunities for placements of longer duration, improved protection for worker health and safety, and a requitement for TEAs to allocate at least 1% of business volume to occupational training.

77. In Sweden the TEA sector has largely been dealt with through collective agreements between social partners and voluntary self-regulation. Collective agreements are also important in Spain, where principle of pay parity applies according to the sectoral agreement of the user enterprise (client).

78. In Italy the law permitting temporary agency work was first established in 1997, introducing certification scheme and the principle of equal pay and social rights as permanent workers in the user company. Finland and Greece passed regulations in 2001. Greece established a special committee to advise the Minister of Labour on the granting of operating licenses to TEAs.

79. Most countries operate a licensing, registration or similar approval system for TEAs. Norway and Sweden do not have a licensing system and Finland, the Netherlands and the United Kingdom revoked their existing licensing schemes in the course of 1990s. In UK the Department of Trade and Industry operates an

inspection and complaints investigation system through the Employment Agency Standrds Inspectorate. Elsewhere, there is considerable variation in the stringency of the licensing schemes used.

80. A major issue in Finland, the Netherlands and Portugal is the role of some TEAs in supplying irregular, often migrant, labour which has led to calls for tighter licensing and enforcement mechanisms. In the Netherlands, for example, the government recently proposed to reintroduce a licensing scheme on such grounds, although this was rejected by the Lower House in May 2005 following objections from the employers.

81. Eleven[3] countries stipulate that there should be equality of employment terms and conditions between temporary agency workers and comparable permanent staff in the user enterprise.

82. The distinction between the EU15 and the new EU member states is most pronounced when it comes to self-regulation of temporary employment agencies (TEAs). All of the EU15 and Norway have representative employer organisations and some degree of trade union organisation. Almost all engage in sectoral level collective bargaining, and this assumes an important regulatory role whether the law is relatively strong (Belgium and France); where it serves as a substitute for or development of relatively weak statutory provisions (Denmark, the Netherlands); or in the remaining cases in-between.

83. In contrast, none of the new EU member states employ sectoral level collective bargaining. This explains why some of these countries that are experiencing TEA growth[4] have opted for a more or less robust legal regulatory framework. Without a social partner capacity for effective self-regulation, it is up to the law to advance the reputation of this employment form to both user companies and individual temporary agency employees, and to reduce political or trade union objections to temporary agency work itself. Regulations in such cases help to legitimise the activity of temporary employment agencies in start-up situations.

VII. The way forward

84. The increased mobility of workers and services both in the European internal market and amongst the CIS countries, will inevitably lead to new patterns of employment in a wider Europe. Problems, though of different nature, exist both for regular and irregular recruitment and they are likely to increase due to the growing sector of national and trans-national temporary recruitment.

85. Poverty, lack of rule of law, lowering of labour standards, propensity of criminal groups and corruption in certain countries in particular in Eastern Europe and many CIS countries all contribute to an increasing phenomena of irregular recruitment, forced labour and human trafficking. More structured cooperation between member states of the Council of Europe is crucial. The International Convention on the Protection of All Migrant Workers and Members of Their Families, the ILO Conventions on migrant workers and private employment agencies (143 and 181), the Palermo Protocols and the Council of Europe Convention on the Legal Status of Migrant Workers, the revised European Social Charter and the Council of Europe Trafficking Convention provide a good framework for such cooperation and joint action.

86. The ILO, the Council of Europe and the European Union should join forces to assist those member states in developing and enforcing strategies to combat irregular recruitment and trafficking. More research into existing patterns of abusive practice and more extensive information campaigns on migrant workers rights and conditions of work are necessary as preventive measures. Assistance programmes are equally needed to help develop strict labour recruitment regulation, to apply enforcement mechanisms that work in practice (dissuasive sanctions, penalties including criminal prosecution) and tougher control through police and labour inspection.

87. Euro-Ciett advocates setting up national trade organisations, developing sectoral social dialogue, and adopting regulation on temporary recruitment agencies after consultation with the social partners. The ILO is currently assisting the Russian Federation and Ukraine, through several pilot projects, to gradually regulate the recruitment sector.

[3] Austria, Belgium, Finland, France, Germany, Greece, Italy, Luxemburg, the Netherlands, Portugal and Spain (source : "Temporary agency work in an enlarged European Union", European Foundation for the Improvement of Living and Working Conditions, 2006)

[4] Czech Republic, Poland, Romania, Slovakia and Slovenia

88. The phenomena of regular and irregular trans-national temporary recruitment is growing also in Central and Eastern Europe, with cheaper migrant labour coming from further east and south east. Regulation and functioning of temporary employment agencies is still a relatively new phenomena.

89. In the context of the European Union, problems are of a different nature and consist of regulating mainstream TEA business to safeguard labour standards and to create a level playing field for the internal market.

90. The United Kingdom, Ireland and Sweden apply today an open door policy with regard to employment of workers from the new EU Member States. Other EU-15 member countries will soon follow suit, once the transition periods are exhausted. It is therefore necessary to establish clear rules and minimum harmonisation within the internal market. Reaching the satisfactory compromise on the Services Directive would be therefore crucial.

91. Several EU member states have already adopted rules that ensure that temporary migrant workers receive the same treatment in terms of wages, working conditions and social rights as the local labour force in their respective countries. It is important therefore – especially in view of the present and foreseen increase in the activities of the TEAs – that in all Council of Europe member states, basic rules exist that ensure equal treatment and basic rights of temporary and migrant workers.

92. Such basic rules should safeguard the rights to be a part of and to form trade unions, to be a part of collective bargaining in the host country; to minimum wages; on working time and other working conditions; statutory social security benefits; access to training; protection in the field of occupational safety and health; compensation in case of occupational accident or diseases; insolvency; protection of workers claims; and maternity protection and parental protection and benefits.

93. Article 19 of the revised European Social Charter already provides guideline for some of these basic standards. However, the implementation of the Article 19 is based on the principle of reciprocity between signatory parties, and it therefore applies only in the situation if both member states concerned have ratified Article 19. At the level of the European Union, these minimum standards are provided by the EU Directive on Posting of Workers.

94. Moreover, the European Union may in due course re-open negotiation to advance with harmonisation of working conditions for temporary agency workers and to adopt the principle of non-discrimination, including for pay, between temporary agency workers and comparable workers in the user enterprise.

95. Regulations are also needed to make sure that taxes of wages are paid in the host country according to its locally established tax-collection system and not in the labourers' country of origin or the country where the respective TEA is stationed.

96. While recognising confidentiality principle, TEAs should have to give undertakings to the authorities in the countries in which they operate that they comply with domestic legislation inline with the future Services Directive and other social legislation.

VIII. Conclusion

97. Temporary Employment Agencies are flexible means of hiring workers in increasingly dynamic labour markets across Europe, but a proper regulatory framework for agency work is necessary to avoid lowering of labour standards, social dumping and abuse of migrant workers' rights.

98. Due to different levels of economic and political integration in Europe, trans-national temporary recruitment should be regulated at three different levels corresponding to :

- recruitment between EU member states in compliance with the future Services Directive;
- recruitment from non EU to an EU member state by increasing inspection powers;
- and recruitment between non-EU member states of the Council of Europe

by establishing a system of checks and gradually developing labour market regulation and effective enforcement mechanisms.

99. Strong political will is necessary in order to achieve such regulatory frameworks. Now there is a need for further political discussion. Regulation of irregular migration in Europe is above all an economic issue and it should therefore involve a close cooperation with trade unions, user enterprises and TEAs.

APPENDIX I : Examples of alleged discriminatory temporary labour recruitment in the European Internal Market

1. At the Committee hearing on the situation of migrant workers in the temporary employment agencies (Brussels, 21 March 2006), the European Trade Union Confederation (ETUC) presented the example of alleged discriminatory treatment of Portugese workers employed through Dutch temporary employment agencies in construction and agriculture sectors. In case of the "Columbus" temporary employment agency based in Bladel (near Eindhoven), it has been suggested that Portuguese workers were kept in isolation from the rest of the dutch society in special housing units with obligatory company transport to and from work; that they had wages below the Dutch minimum wage; long working hours; that they experienced difficulties to access medical care; and that they were generally subjected to psychological pressure (fear of arbitrary dismissal; unnecessary charges for extra fees and costs; change of accommodation against free will; etc.).

2. The report "Life on the Edge" published by the Trade Union Confederation (TUC) in the United Kingdom provides some examples of alleged abusive treatment of migrant workers.

3. According to TUC the contracts issued to workers recruited from Poland by an agency supplying temporary workers to the security industry stated that the workers would be required to work a minimum of 56 hours per week and such additional hours as considered necessary to meet business needs. There was no direct mention of the workers' legal entitlement to a maximum 48 hours week, under regulation 4 of the Working Time Regulations 1998. Instead, a clause was seemingly inserted in the contract stating that regulation 4 shall not apply and the worker "acknowledges that he/she will be required to work in excess of 48 hours per week". The worker was required to give a three months notice period to end the 'opt-out'. The contract also apparently stated that the worker would not be entitled to any payment other than the standard hourly rate of £5.50 per hour, in respect of any hours worked in excess 56 hours a week, even if they were worked at antisocial times or weekends.

4. TUC referred to another example : an agency, which supplied mainly migrant workers to the Hotel and Catering Industry, claimed that the £4.50 per hour it paid to a chambermaid was lawful under the National Minimum Wage (NMW) legislation[5] as this was a "training rate". A development rate of at least £4.10[6] can apply to workers undergoing accredited training, i.e. a course which leads to an approved external qualification. However, in this case the agency had apparently simply "phoned the [hotel] housekeeper to ask a favour if she could train [Ms B] to help her out".

5. It has been also mentioned that a temporary worker who worked in a food factory found that she was regularly working a 12-hour shift, 5 times a week, with a break of one hour during each shift. For this she apparently received £150 per week. Because she was not given any payslips, she was unable to explain what deductions were being made from her pay.

6. A group of workers from the Czech Republic allegedly signed up with a temporary agency and were quoted an attractive hourly rate for assignments and were promised that their accommodation needs would be met by the agency. On arrival in the UK, however, they were apparently given a written statement which specified an hourly rate below the national minimum wage. With no English, no accommodation and no money to return home, they signed the agreement. It appears that those workers who did protest about their treatment found themselves out of work and evicted from their accommodation. Some of them were threatened with physical assault.

[5] The national minimum hourly rate for adults aged 22 and over rose from £4.85 to £5.05 in October 2005.
[6] £4.25 since October 2005

APPENDIX II : List of ratifications by the Council of Europe member states

1. International Convention on the Protection of All Migrant Workers and Members of Their Families (1990)

Participant	Signature	Ratification, Accession (a), Succession (d)
Bosnia and Herzegovina	.	13 Dec 1996 a
Serbia	11 Nov 2004	.
Turkey	13 Jan 1999	27 Sep 2004

2. ILO Convention on migrant workers (143)[7]

Ratifications by country	Ratification date	Status
Albania	12:09:2006	ratified
Armenia	27:01:2006	ratified
Bosnia and Herzegovina	02:06:1993	ratified
Cyprus	28:06:1977	ratified
Italy	23:06:1981	ratified
"The former Yugoslav Republic of Macedonia"	17:11:1991	ratified
Norway	24:01:1979	ratified
Portugal	12:12:1978	ratified
San Marino	23:05:1985	ratified
Serbia	24:11:2000	ratified
Slovenia	29:05:1992	ratified
Sweden	28:12:1982	ratified

[7] Convention concerning Migrations in Abusive Conditions and the Promotion of Equality of Opportunity and Treatment of Migrant Workers, 1978 (C143)

3. ILO Convention on private employment agencies (181)[8]

Ratifications by country	Ratification date	Status
Albania	30:06:1999	ratified
Belgium	28:09:2004	ratified
Bulgaria	24:03:2005	ratified
Czech Republic	09:10:2000	ratified
Finland	25:05:1999	ratified
Georgia	27:08:2002	ratified
Hungary	19:09:2003	ratified
Italy	01:02:2000	ratified
Lithuania	19:03:2004	ratified
Republic of Moldova	19:12:2001	ratified
Netherlands	15:09:1999	ratified
Portugal	25:03:2002	ratified
Spain	15:06:1999	ratified

[8] Convention concerning Private Employment Agencies, 2000 (C181)

4. United Nations Convention against Transnational Organized Crime (Palermo Convention), 2000

Country	Signature	Ratification, Acceptance (A), Approval (AA), Accession (a)
Albania	12 December 2000	21 Aug 2002
Andorra	11 November 2001	
Armenia	15 November 2001	01 July 2003
Austria	12 December 2000	23 Sep 2004
Azerbaijan	12 December 2000	30 Oct 2003
Belgium	12 December 2000	11 Aug 2004
Bosnia and Herzegovina	12 December 2000	24 April 2002
Bulgaria	13 December 2000	5 Dec 2001
Croatia	12 December 2000	24 Jan 2003
Cyprus	12 December 2000	22 April 2003
Czech Republic	12 December 2000	
Denmark [2]	12 December 2000	30 Sep 2003
Estonia	14 December 2000	10 Feb 2003
European Community	12 December 2000	21 May 2004 AA
Finland	12 December 2000	10 Feb 2004
France	12 December 2000	29 Oct 2002
Georgia	13 December 2000	05 September 2006
Germany	12 December 2000	14 June 2006
Greece	13 December 2000	
Hungary	14 December 2000	
Iceland	13 December 2000	
Ireland	13 December 2000	
Italy	12 December 2000	02 August 2006
Latvia	13 December 2000	7 Dec 2001
Liechtenstein	12 December 2000	
Lithuania	13 December 2000	9 May 2002
Luxemburg	13 December 2000	
Malta	14 December 2000	24 Sep 2003
Monaco	13 December 2000	5 June 2001
Montenegro [3]		23 October 2006 d
Netherlands [4]	12 December 2000	26 May 2004
Norway	13 December 2000	23 Sep 2003
Poland	12 December 2000	12 Nov 2001
Portugal	12 December 2000	10 May 2004
Republic of Moldova	14 December 2000	16 September 2005
Romania	14 December 2000	04 Dec 2002
Russian Federation	12 December 2000	26 May 2004
San Marino	14 December 2000	
Serbia	12 December 2000	06 Sep 2001
Slovakia	14 December 2000	03 Dec 2003
Slovenia	12 December 2000	21 May 2004
Spain	13 December 2000	01 March 2002
Sweden	12 December 2000	30 April 2004
Switzerland	12 December 2000	27 October 2006
"The former Yugoslav Republic of Macedonia"	12 December 2000	12 Jan 2005
Turkey	13 December 2000	25 March 2003
Ukraine	12 December 2000	21 May 2004
United Kingdom of Great Britain and Northern Ireland	14 December 2000	09 February 2006

Source : United Nations Office on Drugs and Crime http://www.justiceinitiative.org

The Protocol to prevent, suppress and punish trafficking in persons especially women and children (Palermo Protocol), 2000

Country	Signature	Ratification, Acceptance (A), Approval (AA), Accession (a)
Albania	12 December 2000	21 August 2002
Armenia	15 November 2001	01 July 2003
Austria	12 December 2000	15 September 2005
Azerbaijan	12 December 2000	30 October 2003
Belgium	12 December 2000	11 Aug 2004
Bosnia and Herzegovina	12 December 2000	24 April 2002
Bulgaria	13 December 2000	5 December 2001
Croatia	12 December 2000	24 January 2003
Cyprus	12 December 2000	06 August 2003
Czech Republic	10 December 2002	
Denmark [1]	12 December 2000	30 September 2003
Estonia	20 September 2002	12 May 2004
European Community	12 December 2000	06 September 2006 AA
Finland	12 December 2000	07 September 2006 A
France	12 December 2000	29 October 2002
Georgia	13 December 2000	05 September 2006
Germany	12 December 2000	14 June 2006
Greece	13 December 2000	
Hungary	14 December 2000	
Iceland	13 December 2000	
Ireland	13 December 2000	
Italy	12 December 2000	02 August 2006
Latvia	10 December 2002	25 May 2004
Liechtenstein	14 March 2001	
Lithuania	25 April 2002	23 June 2003
Luxemburg	13 December 2000	
Malta	14 December 2000	24 September 2003
Monaco	13 December 2000	5 June 2001
Montenegro [2]		23 October 2006 d
Netherlands [3]	12 December 2000	27 July 2005 A
Norway	13 December 2000	23 September 2003
Poland	04 October 2001	26 September 2003
Portugal	12 December 2000	10 May 2004
Republic of Moldova	14 December 2000	16 September 2005
Romania	14 December 2000	04 December 2002
Russian Federation	12 December 2000	26 May 2004
San Marino	14 December 2000	
Serbia	12 December 2000	6 Sep 2001
Slovakia	15 November 2001	21 Sep 2004
Slovenia	15 November 2001	21 May 2004
Spain	13 December 2000	01 march 2002
Sweden	12 December 2000	1 July 2004
Switzerland	02 April 2002	27 October 2006
"The former Yugoslav Republic of Macedonia"	12 December 2000	12 Jan 2005
Turkey	13 December 2000	25 March 2003
Ukraine	15 November 2001	21 May 2004
United Kingdom of Great Britain and Northern Ireland	14 December 2000	09 February 2006

Source : United Nations Office on Drugs and Crime, http://www.justiceinitiative.org

The Protocol against smuggling of migrants by land, sea and air (Palermo Protocol), 2000

Country	Signature	Ratification, Acceptance (A), Approval (AA), Accession (a)
Albania	12 December 2000	21 August 2002
Armenia	15 November 2001	01 July 2003
Austria	12 December 2000	
Azerbaijan	12 December 2000	30 October 2003
Belgium	12 December 2000	11 Aug 2004
Bosnia and Herzegovina	12 December 2000	24 April 2002
Bulgaria	13 December 2000	5 December 2001
Croatia	12 December 2000	24 January 2003
Cyprus	12 December 2000	06 August 2003
Czech Republic	10 December 2002	
Denmark	12 December 2000	
Estonia	20 September 2002	12 May 2002
European Community	12 December 2000	06 September 2006 AA
Finland	12 December 2000	07 September 2006 A
France	12 December 2000	29 October 2002
Georgia	13 December 2000	05 September 2006
Germany	12 December 2000	14 June 2006
Greece	13 December 2000	
Hungary	14 December 2000	
Iceland	13 December 2000	
Ireland	13 December 2000	
Italy	12 December 2000	02 August 2006
Latvia	10 December 2002	23 April 2003
Liechtenstein	14 March 2001	
Lithuania	25 April 2002	12 May 2003
Luxemburg	12 December 2000	
Malta	14 December 2000	24 September 2003
Monaco	13 December 2000	5 June 2001
Montenegro [1]		23 October 2006 d
Netherlands [2]	12 December 2000	27 July 2005 A
Norway	13 December 2000	23 September 2003
Poland	4 October 2001	26 September 2003
Portugal	12 December 2000	10 May 2004
Republic of Moldova	14 December 2000	16 September 2005
Romania	14 December 2000	04 December 2002
Russian Federation	12 December 2000	26 May 2004
San Marino	14 December 2000	
Serbia	12 December 2000	6 September 2001
Slovakia	15 November 2001	21 Sep 2004
Slovenia	15 November 2001	21 May 2004
Spain	13 December 2000	01 March 2002
Sweden	12 December 2000	06 September 2006
Switzerland	02 April 2002	27 October 2006
"The former Yugoslav Republic of Macedonia"	12 December 2000	12 Jan 2005
Turkey	13 December 2000	25 March 2003
Ukraine	15 November 2001	21 May 2004
United Kingdom of Great Britain and Northern Ireland	14 December 2000	09 February 2006

Source : United Nations Office on Drugs and Crime, http://www.justiceinitiative.org

5. Council of Europe Convention on the Legal Status of Migrant Workers, 1977

States	Signature	Ratification	Entry into force	Notes	R.	D.	A.	T.	C.	O.
Albania										
Andorra										
Armenia										
Austria										
Azerbaijan										
Belgium	9/2/1978									
Bosnia and Herzegovina										
Bulgaria										
Croatia										
Cyprus										
Czech Republic										
Denmark										
Estonia										
Finland										
France	29/4/1982	22/9/1983	1/12/1983		X	X				
Georgia										
Germany	24/11/1977					X				
Greece	24/11/1977									
Hungary										
Iceland										
Ireland										
Italy	11/1/1983	27/2/1995	1/5/1995							
Latvia										
Liechtenstein										
Lithuania										
Luxembourg	24/11/1977									
Malta										
Moldova	11/7/2002	20/6/2006	1/10/2006		X	X				
Monaco										
Netherlands	24/11/1977	1/2/1983	1/5/1983		X	X		X		
Norway	3/2/1989	3/2/1989	1/5/1989		X	X				
Poland										
Portugal	24/11/1977	15/3/1979	1/5/1983							
Romania										
Russia										
San Marino										
Serbia										
Slovakia										
Slovenia										
Spain	24/11/1977	6/5/1980	1/5/1983							

Sweden	24/11/1977	5/6/1978	1/5/1983							
Switzerland										
"the former Yugoslav Republic of Macedonia"										
Turkey	24/11/1977	19/5/1981	1/5/1983							
Ukraine	2/3/2004									
United Kingdom										

6. Council of Europe Convention on Action against Trafficking in Human Beings, 2005

States	Signature	Ratification	Entry into force	Notes	R.	D.	A.	T.	C.	O.
Albania	22/12/2005									
Andorra	17/11/2005									
Armenia	16/5/2005									
Austria	16/5/2005	12/10/2006								
Azerbaijan										
Belgium	17/11/2005									
Bosnia and Herzegovina	19/1/2006									
Bulgaria	22/11/2006									
Croatia	16/5/2005									
Cyprus	16/5/2005									
Czech Republic										
Denmark	5/9/2006									
Estonia										
Finland	29/8/2006									
France	22/5/2006									
Georgia	19/10/2005									
Germany	17/11/2005									
Greece	17/11/2005									
Hungary										
Iceland	16/5/2005									
Ireland										
Italy	8/6/2005									
Latvia	19/5/2006									
Liechtenstein										
Lithuania										
Luxembourg	16/5/2005									
Malta	16/5/2005									
Moldova	16/5/2005	19/5/2006				X				
Monaco										
Montenegro	16/5/2005			55						

Netherlands	17/11/2005									
Norway	16/5/2005									
Poland	16/5/2005									
Portugal	16/5/2005									
Romania	16/5/2005	21/8/2006								
Russia										
San Marino	19/5/2006									
Serbia	16/5/2005			55						
Slovakia	19/5/2006									
Slovenia	3/4/2006									
Spain										
Sweden	16/5/2005									
Switzerland										
"the former Yugoslav Republic of Macedonia "	17/11/2005									
Turkey										
Ukraine	17/11/2005									
United Kingdom										

APPENDIX III : regulation of TEAs in 15 EU member states and Norway

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

Source : "Temporary agency work in an Enlarged European Union", report by the European Foundation for the Improvement of Living and Working Conditions, Dublin, 2006

Reporting committee : Committee on Migration, Refugees and Population

Reference to committee: Ref. 2989, 07.09.2004.

Draft resolution and draft recommendation unanimously adopted by the Committee, on 11 December 2006.

Members of the Committee: Mr Mevlüt **Çavuşoğlu** (Chairperson), Mr Jean-Guy Branger (1st Vice-Chairperson), ZZ ……. (2nd Vice-Chairperson), Mr Doug **Henderson** (3rd Vice-Chairperson), Mr Pedro Agramunt, Mr Küllo Arjakas, Mr Hüseyin-Kenan Aydin, Mr Ryszard Bender, Mr Akhmed Bilalov, Mr Italo **Bocchino**, Mrs Olena **Bondarenko**, Mrs Mimount **Bousakla**, Mr Márton Braun, Lord Burlison (alternate: Mr Bill **Etherington**), Mr Sergej Chelemendik, Mr Christopher Chope, Mr Boriss Cilevičs, Mrs Minodora Cliveti, Mr Ivica Dačić, Mr Joseph Debono Grech, Mr Taulant Dedja, Mr Nikolaos Dendias, Mr Abilio Dias Fernandes, Mr Karl Donabauer, Mr Mats Einarsson, Mrs Lydie Err, Mr Valeriy Fedorov, Mr Oleksandr Feldman, Mrs Daniela Filipiová, Mrs Margrét Frimannsdóttir, Mrs Gunn Karin Gjul (alternate:Mr Øyvind **Vaksdal**), Mrs Angelika Graf, Mr John **Greenway**, Mr Andrzej Grzyb, Mr Ali Riza **Gülçiçek**, Mr Michael **Hagberg**, Mr Holger Haibach, Ms Gultakin Hajiyeva, Mr Jürgen Herrmann, Mr Ilie **Ilaşcu**, Mr Tadeusz Iwiński, Mr Mustafa Jemilev (alternate: Mrs Oksana **Bilozir**), Mrs Corien W.A. **Jonker**, Mrs Eleonora **Katseli**, Mr Dimitrij Kovačič, Mr Andros Kyprianou, Mr Petr Lachnit, Mr Geert **Lambert**, Mr Jean-Marie Le Guen, Mr Massimo Livi Bacci (alternate: Mr Lucio **Malan**), Mr Younal Loutfi, Mr Jean-Pierre Masseret, Mr Giorgio Mele (alternate: Mr Pasquale **Nessa**), Mrs Ana Catarina **Mendonça**, Mr Morten **Messerschmidt**, Mr Paschal **Mooney**, Mr Gebhard **Negele**, Mrs Annette Nijs (alternate: Mr Leo **Platvoet**), Mr Kalevi Olin, Mr İbrahim **Özal**, Mrs Maria Josefa **Porteiro Garcia**, Mr Cezar Florin Preda, Mr Dušan Proroković, Mr Gabino Puche (alternate:Mr Adolfo **Fernández Aguilar**), Mr Milorad Pupovac, Mr Martin Raguž, Mr Marc **Reymann**, Mr Alessandro Rossi, Mr Samad Seyidov (alternate: Mr Aydin **Mirzazada**), Mr Luzi Stamm (alternate: Mrs Rosmarie **Zapfl-Helbling**), Mr Sergiu Stati, Mrs Terezija Stoisits, Mr Giacomo **Stucchi**, Mr Vilmos Szabó, Mrs Elene **Tevdoradze**, Mr Tigran Torosyan, Mrs Ruth-Gaby **Vermot-Mangold**, Mrs Iliana **Yotova**, Mr Akhmar Zavgayev, Mr Andrej **Zernovski**, Mr Vladimir Zhirinovsky, Mr Emanuelis Zingeris.

N.B. The names of the members who took part in the meeting are printed in bold.

Secretaries of the Committee: Mr Halvor Lervik, Mr Mark Neville, Ms Dana Karanjac