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

Opinion¹

Committee on Economic Affairs and Development

Rapporteur: Mrs Rosemarie Zapfl-Helbling, Switzerland, Group of the European People's Party

A. Conclusions of the Committee

The Committee Economic Affairs and Development emphasises that in order to avoid discrimination and labour market distortions, the services of temporary employment agencies that contract migrant and other workers out to third party employers should be more closely regulated to ensure equality of treatment.

B. Amendments proposed by the Committee

The Committee on Economic Affairs and Development proposes the following amendments to the report of the Committee on Migration, Refugees and Population (Document 11109):

Amendment 1

In the draft Resolution, paragraph 6, amend the last sentence to read:

“In this regard, the Parliamentary Assembly welcomes the adoption of Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market.”

Amendment 2

In the draft Resolution, paragraph 12, amend the first line to read:

“In the light of the above, the Parliamentary Assembly invites those member states of the Council of Europe which have not yet done so to:”

Amendment 3

In the draft Resolution, paragraph 12.6, omit the words “where such mechanisms do not yet exist,”

¹ See Doc 11109 tabled by the Committee on Migration, Refugees and Population.

Amendment 4

In the draft Resolution, following paragraph 12.6, add the following sub-paragraph:

“- include, in their national legislation and regulations, clear and comprehensive definitions of what constitutes a private temporary employment agency or recruiter and of the contractual status of temporary agency workers;”

Amendment 5

In the draft Resolution, following paragraph 12.11, add the following sub-paragraph:

“- give incentives to temporary employment agencies to allocate a percentage of resources to vocational training;”

Amendment 6

In the draft Resolution, following paragraph 12, add the following paragraph:

“- The Parliamentary Assembly invites the institutions of the European Union to re-examine the EU Commission's proposal for a Directive on working conditions for temporary agency workers.”

C. Explanatory memorandum

by Mrs Rosemarie Zapfl-Helbling, Rapporteur

1. The employment of migrants by temporary employment agencies (TEAs), which then contract them out to third party employers, appears to be a growing, though not statistically major, phenomenon. Such short-term migrant workers, often seasonal, can increasingly be found doing basic jobs in construction, agriculture, factories and services. The Committee on Migration, Refugees and Population is to be congratulated for bringing attention to the employment of migrant workers through TEAs, and especially to their vulnerable situation, as is well illustrated in Mr Henderson's report.

2. The report provides a concise overview of the benefits and problems associated with the temporary employment of migrant workers through TEAs, with examples of discriminatory treatment suffered by migrants both within and outside the EU. It provides a comprehensive survey of international and European attempts to regulate the problems involved and it presents a useful set of recommendations and conclusions, both in its draft Resolution aimed at the member States and in its draft Recommendation addressed to the Committee of Ministers.

3. The abolition of all obstacles to the free movement of goods, persons, services and capital remains fundamental to securing the benefits of European economic integration, which are, essentially, higher growth and prosperity. Freedom of people to move in search of jobs and to take up employment, while benefiting from equal treatment in regard to access to employment, working conditions and other advantages is now an acquired right of citizens of the European Union.

4. The Council of Europe has long sought, through various Conventions and recommendations to governments, to facilitate freedom of movement among its member States,

in particular seeking to harmonise standards of treatment of migrant workers while defending their human and social rights. True to its statutory objectives of achieving greater unity among the member States and facilitating their economic and social progress, it should do everything possible to ensure that the growing prosperity of its EU member States does not leave the rest of Europe behind.

5. Temporary employment agencies can provide a useful service by reducing unemployment, increasing labour market flexibility for both employers and workers, allowing for a rapid and targeted response of supply to demand, providing a useful way into permanent employment, stimulating mobility, and allowing workers more choice as to their patterns of work.

6. On the other hand, the operations of TEAs may result in an increase in job insecurity and social injustice through exploitation of the work force, abusive dismissals, reductions in benefits, and an undermining of long-term or permanent employment. Unfortunately, evidence points to unequal treatment of those recruited by TEAs in comparison with those employed directly by the companies that use their services.

7. The debate about temporary employment agencies goes to the heart of the quarrel between partisans of the liberal economy, who favour a flexible labour market as a prerequisite to fuller employment and faster economic growth, and those who argue for a more strictly regulated economy, who underline the primary importance of economic and social rights and worker protection.

8. Whatever the merits of these arguments, and whichever policy prevails, what is important, at least in the context of the EU single market, is that the same rules and conditions governing the services rendered by TEAs should be applied in all its member States. This should apply also to recruitment from outside the EU. Otherwise there will clearly be distortions to competition. Unfortunately, this is not the case, as Mr Henderson's report demonstrates.

9. The Committee on Economic Affairs and Development proposes some amendments to the draft Resolution. On 12 December 2006, the European Parliament and of the Council of the European Union adopted Directive 2006/123/EC on services in the internal market, a significant advance in the regulation of this contentious issue. Hence paragraph 6 in the draft Resolution should be amended accordingly.

10. The adoption of the EU Directive on services should now open the way to a re-examination of the EU Commission's 2002 proposal for a Directive on working conditions for temporary agency workers (described in paragraphs 56 to 63 of Mr Henderson's report), with a view to establishing the principle of non-discrimination and preventing labour market distortions in this sector. The PACE Resolution should include a recommendation in this sense to the EU institutions.

11. In the meantime, Council of Europe member States should be encouraged to include, in their national legislation and regulations, clear and comprehensive definitions of what constitutes a temporary employment recruiter or agency, and of the contractual status of temporary agency workers, since these concepts are not always precisely defined.

12. Finally, the importance of vocational training should be emphasised, following the example of Portugal, which, as detailed in paragraph 76 of the report, requires temporary employment agencies to devote at least one per cent of their turnover to such training.

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Secretariat of the committee: Mr Newman, Ms Ramanauskaite, Mr de Buyer