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# TEMPORARY AGENCY WORK

A TRADE UNION APPROACH TO THE IMPLEMENTATION  
(AND LESSONS LEARNED IN OLD MEMBER STATES)

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# KEY CHALLENGES

- **Review of bans and restrictions**
- **How to secure equal rights**
- **Unionisation of TAWs**
- **Supplementary rules in collective agreement**
- **Control and sanctions**





# **TAW AS A MAJOR SECTOR**

- **Thousands of agencies after deregulation**
- **10 million TAWs in Europe on annual basis**
- **New jobs for young and old are temporary**
- **TAWs are precarious – unclear bridge effect**
- **Many are foreign/posted workers**





# **METAL INDUSTRY AS A USER**

- **Metal industry is by far the biggest user**
- **Up to 80 per cent TAW in some companies**
- **TAW key element of 2<sup>nd</sup> common demand**
- **Low union density among TAWs**
- **TAWs are less stable and loyal to companies**





# **PRINCIPLE POSITION OF EMF**

- **We prefer traditional contracts**
- **TAWs should be temporary solution in specific situations**
- **Equal work – equal rights (all rights)**
- **Supplement law through CA**





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# SECTORAL SOCIAL DIALOGUE

- **UNI already has formal dialogue**
- **EMF wants additional contact with Eurociett**
- **We want organization in user companies**





# KEY FEATURES OF DIRECTIVE

- **Important points are unclear**
- **Social policy and minimum directive**
- **Review of restrictions and prohibitions**
- **At least equal conditions from first day**
- **Penalties for infringements**





# VARIATIONS

- **Licensing and control outside directive**
- **Different models possible. Open-ended contract with guarantee payment between assignments. In other countries the alternative is unemployment benefit.**
- **Role of unions will vary a lot.**







# EQUAL PAY

- **Important but difficult challenge**
- **Already in law in France/Italy/Finland**
- **Rules could be “paper tigers”**
- **Often secret wages for TAWs**
- **Role for local shop stewards**





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# DEROGATION FROM EQUAL PAY

- **Guaranteed wages (Art. 5.2)**
- **Derogations in CA (Art. 5.3)**
- **Qualification period before equal pay (5.4)**





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# **BANS AND RESTRICTIONS**

- **Most bans in high risk sectors**
- **Ban in Belgian construction sector lifted**
- **Member states must report to Commission on review**





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# OBJECTIVE REASONS

- **Genuine substitution of staff**
- **“Unusual” functions in the company**





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# LIMITATIONS IN COLLECTIVE A.

- **Maximum duration**
- **Maximum percentage**
- **Maximum number of renewals**
- **Great need for more staff**





# **NO STRIKE-BREAKING**

- **Belgian law bans TAWs replacing strikers**
- **Others say strike-breaking is “impossible”**
- **The directive seems to protect this tradition**





# RIGHTS OF TAWS

- **“Have two employers”**
- **Right to information and consultation**
- **Could have formal right to permanent job**
- **Organize and in principle set up CA**
- **Pensions rights? Career possibilities?**





# POSTED TAWS

- **Additional equality problems**
- **Posted workers directive: only host country's "core conditions" (Art. 3: ECJ-cases Viking, Laval, Rüffert, Luxembourg)**
- **Extra supervision problems**







# COLLECTIVE AGREEMENTS

- **German steel sector: secures equal pay**
- **Neth: calculation tool/“Compliance Police”.**
- **Limitations in Bulgaria**
- **SF: User shop stewards represent TAW**
- **SE: CA for TAWs (unions of LO and TCO)**





# **LIMITATIONS IN CA**

- **Percentage of total work force**
- **Maximum duration of contract**
- **Number of renewals**
- **Provisions on equal conditions**
- **(But CA can't formally include TAW).**





# ACTIVE NATIONAL UNIONS

- **Teach and motivate local rep's**
- **Evaluate national implementation**
- **Get involved in public licensing**
- **Secure rights for TAWs through CA**
- **Take part in social dialogue**





# ROLE OF SHOP-STEWARDS

- **Discuss hiring or internal flexibility**
- **Try and check the working conditions**
- **Follow-up equal pay from first day**
- **Organize TAWs in union of user company**
- **Examine possibility for permanent jobs**





# **INFORM TAWs OF RIGHTS**

- **Aim of directive to ensure protection of TAW**
- **Could have formal right to permanent job if objective criteria are not met**
- **Rights to organize and in principle set up CA**
- **Pensions rights? Career possibilities?**





# **SURVEILLANCE**

- **General labour inspection**
- **Special public institute in the Netherlands**
- **“Compliance police” according to CA**
- **Social partners and authorities should agree to kick out the pirates.**





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# Net-Lex

- **Network of legal experts in unions**
- **TAW survey is running now**
- **Next annual conference 1-2 December 2011**





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# CONCLUSIONS

- **TAW should be limited as much as possible**
- **EU directive has pros and cons, but also unclear elements.**

