

Temporary agency work

2002/0072(COD) - 20/03/2002 - Legislative proposal

PURPOSE: to provide a minimum EU-wide level of protection to temporary agency workers. **CONTENT:** whilst EU legislation for fixed-term contracts already exists, the same can not be said of temporary workers. Discussions on EU-wide minimum standards relating to temporary workers has been a matter of discussion for at least twenty years. Yet it is only in the past year that sufficient common ground has been found amongst the social partners to allow for this draft proposal. The legal basis for the proposed legislation is Article 137 of the European Treaties relating to an improvement in working conditions. It takes into account the principle of subsidiarity and proportionality and is fully in line with the conclusions of the Lisbon Council on improved employment possibilities and conditions. In preparing legislation on temporary workers the European Commission depended on the advice of a study carried out by the European Foundation for the Improvement of Living and Working Conditions. This study estimates that the share of temporary work in Europe has been increasing steadily for the past ten years, with an annual growth rate of 10% between 1991 and 1998. It accounts for an average of 2.1 million people (expressed in full-time jobs) or 1.4% of total employment in Europe in 1998. The nature of temporary work varies considerably from Member State to Member State. For example, in the United Kingdom 80% of activities of temporary agencies are in the service and public service sector. By contrast, in France 75% of people working temporarily do so in a manufacturing, construction and public works capacity. Equally, the legal structure for temporary workers varies considerably from very loose legal constructions (e.g. United Kingdom, Ireland) to countries where much stricter provisions exist (e.g. Spain, Belgium). The specific aim of this new legislation is to clarify and harmonise the conditions for posting workers at national level. It can be seen as an extension of arrangements already in force for transnational posting of temporary workers. Specifically it seeks to: - Introduce the general principle of "non-discrimination" for temporary workers. Under these provisions a temporary worker may not be treated worse, in terms of basic working conditions, than a comparable worker who is defined as a worker in the user undertaking in an identical or similar job. - A restriction can be made if there is objective justification for a difference in treatment. This is the case when circumstances dictate that a temporary worker is in a different situation from a normally comparable worker and cannot therefore be treated in the same way. - An exemption may be made when temporary workers have a permanent contract with an agency. - An exemption may be made in cases where social partners, by means of a collective agreement, have already established working conditions. An adequate level of protection must be assured. - Member States must periodically review existing restrictions or prohibitions to temporary work. - Offering temporary workers the chance to seek full-time positions. Temporary workers must be informed of vacant positions, for example. - Temporary workers will have access to the social services of the user undertaking and to training organised through the temporary agency and/or the user undertaking. - The user undertaking must inform its workers' representatives if temporary workers are to be employed.