

Temporary agency work

2002/0072(COD) - 21/11/2002 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted a resolution drafted by its rapporteur Ieke van den BURG (PES, Netherlands) making several amendments to the draft proposal. (Please refer to the document dated 21/10/02). As well as the points listed in that document, Parliament inserted the following key changes: -an additional recital stating that, notwithstanding that social security protection is not an explicit part of the provisions of the directive, social protection systems need to be capable of adaptation to new forms of work in order to provide adequate protection to those engaged on such work. Particular attention needs to be given to the problems that arise for temporary agency workers as a result of, for example, broken work histories, multiple employment situations, and short contracts on the continuity of employment rights; - another recital acknowledges the importance of temporary agency workers for flexible organisation in companies, but states that such workers should not be regarded as 'rationalisation factors' and misused to reduce the user undertaking's permanent workforce or replace women with equally qualified men. - Member States will, within two years of the adoption of the directive and thereafter every five years, after consulting the social partners in accordance with legislation, collective agreements and national practices, review all existing prohibitions and specific administrative provisions on temporary agency workers, and discontinue them if necessary; -within two years of adoption of the directive, and after consultation with social partners, Member States will extend social legislation of temporary workers who are not adequately covered and clarify labour law in relation to the status of such workers; -basic protection as regards essential working conditions and employment protection which is mainly of interest to women, as well as protection against intimidation and discrimination, maternity protection and maternity and parental leave, must be available from day one for all temporary agency workers, whatever type of contract they have; - temporary agency workers must have the same access to the collective facilities of the user undertaking, such as childcare facilities, as apply to workers directly employed by the user undertaking for the same duration unless there are objective reasons against this; -such workers may benefit from activities of workers representative bodies and internal complaints procedures, in the user company; -where the principle of equal treatment is not part of the law or practice of a Member State, such a Member State may, after consultation with the social partners, decide not to apply for 5 years, the principle with respect to pay or specific pay elements for workers assigned to the same user undertaking for a total of not more than six weeks in a reference period of one year, so long as adequate level of pay is provided from day one. Member States must prevent misuse of this provision, especially if workers are assigned repeatedly to the same user undertaking, and will inform the Commission of the measures taken against abuse.