

## **TEMPORARY AGENCY WORK**

<b>Workers' representatives</b>	<b>UNI-Europa - UNI Temporary Work Agencies (formerly Euro-FIET) (1999)</b>  <a href="http://www.uniglobalunion.org/Apps/iportal.nsf/pages/sec_20081016_gblpEn">http://www.uniglobalunion.org/Apps/iportal.nsf/pages/sec_20081016_gblpEn</a>
<b>Employers' representatives</b>	<b>European Confederation of Private Employment Agencies (Euro-CIETT) (1967)</b>  <a href="http://www.eurociett.eu">www.eurociett.eu</a>

### **Sectoral Social Dialogue Committee (SSDC)**

<b>Informal working group:</b>	
<b>SSDC:</b>	2000
<b>Internal Rules:</b>	3 July 2000 and 20 October 2006
<b>Work Programme:</b>	2005 – 2006 – 2007 – 2008 – 2009 – 2010

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## GENERAL OVERVIEW OF SECTOR

**The regulation of temporary agency work has been an item on the European Union's agenda for many years. Back in 1982 the European Commission put forward a draft directive aimed at regulating companies in the sector and ensuring protection and equal treatment for temporary employees.**

This draft directive, amended in 1984, was intended to cover both agency work and fixed-term contracts, but it was never adopted.

Two events brought this matter back into the spotlight in the 1990s. First there was the adoption in 1989 of the Community Charter of Fundamental Social Rights for Workers, which aspires to harmonise and improve living and working conditions, including for temporary workers (see below). Then, in 1997, came the revision of ILO [Convention](#) No. 96 concerning fee-charging employment agencies. This Convention, initially adopted in 1949, had severely restricted the operations of such agencies, whereas in the Commission's opinion the 1997 revision enabled the sector to spread its wings.

Temporary work agencies are currently one of Europe's largest employers and claim to be a driver of job creation. There were approximately 3.8 million temporary workers, in full-time equivalents, in 2007 (the number doubled in the space of ten years). Many of these jobs are highly skilled, and both female and youth employment play a significant role. But the state of affairs is very uneven from one EU Member State to another: the penetration rate of temporary work agencies varies from 4.8% in the United Kingdom to 0.2% in Greece, with a European average of 2%. By the same token, regulatory or legislative approaches to this "industry" differed significantly at the outset. Apart from the fact that a triangular relationship exists between a worker, a company acting as a temporary employment agency, and a user company in which the agency employs the worker and places him/her at its disposal, the legal definitions, forms of regulation and labour relations practices vary considerably.

A [study](#) carried out in 1999 by the European Industrial Relations Observatory identified three main patterns of development:

- a general lack of any clear, specific definition or regulation of temporary work as a separate type of employment relationship (Denmark, Finland, Ireland and the United Kingdom);
- a specific legal definition and regulation of temporary work, relating mainly to the relationship between the temporary employment agency, the user company and the worker (Germany, Austria, Spain, Luxembourg, Norway, the Netherlands and Sweden);

- a specific legal definition and regulation of temporary work covering the relationship between the temporary employment agency, the user company and the worker, but also determining a specific status for temporary workers (Belgium, France, Italy and Portugal).

These substantial differences, coupled with the industry's "development potential", sparked a policy debate around the question of a European directive on temporary agency work. In 1990, as part of the action programme accompanying the Community Charter of Fundamental Social Rights for Workers, the Commission proposed introducing legislation in this area. The Charter in fact refers to the need for an alignment and improvement of forms of employment such as temporary work, stating that "the improvement must cover, where necessary, the development of certain aspects of employment regulations" (Article 7).

Nothing came of the Commission's efforts, but that did not prevent the adoption on 25 June 1991 of a directive on improving the safety and health at work of temporary workers. This directive did not, however, cover other important aspects of agency work such as the duration and renewal of contracts, the circumstances in which user companies may have recourse to temporary staff, parity of pay and working conditions between temporary workers and equivalent permanent staff in user companies, and trade union rights and collective representation.

It was against this background, and at the Commission's initiative, that the European social dialogue partners took up the issue as from 1995 (see Participants and Challenges), thereby lending structure to social dialogue in this sector.

## PARTICIPANTS AND CHALLENGES

European social dialogue in the temporary work sector was launched in 2000. The social partners in the sector, [UNI-Europa](#) for the workers and [Euro-CIETT](#) for the employers, initially shaped their social dialogue around European-level discussion of the directive on temporary agency work.

We must go back to 1995 to fully understand and assess the dynamic of sectoral social dialogue in the temporary work sector. In that year, before the sectoral social dialogue in this sphere had been put on a formal footing, the Commission launched a round of consultations with the *cross-industry* European social partners. This led to the start of negotiations between them on three topics: part-time work, fixed-term contracts and temporary work. [Framework agreements](#) were reached on the first two, both of which were transformed into directives, in 1997 and 1999 respectively.

In May 2000 the cross-industry social partners began to discuss temporary work. In July of that same year, the sectoral social partners, UNI-Europa and Euro-CIETT, made their sectoral social dialogue official by signing a declaration of recognition – even though an informal SSD already existed. The declaration defines the role of social dialogue as follows: *“given that agency work may play a positive role in the labour market, the sectoral social dialogue should devote itself to improving the quality and operation of the labour market in Europe, the employment and working conditions of agency-supplied workers and greater professionalism in the sector”*.

This newly established SSD was however suspended between July 2000 and June 2001 while the cross-industry talks on the subject were underway. But the cross-industry social partners failed to reach an agreement. The Commission therefore stepped in again and (once more) proposed a directive on temporary work in 2001.

The Commission’s legislative initiative prompted UNI-Europa and Euro-CIETT to negotiate and adopt joint opinions on various aspects of the draft directive and on working time (2001). Then, bit by bit, their talks expanded into areas such as flexicurity (2007), working conditions (2008) and vocational training (2009).

In 2008, just before the directive on temporary agency work was adopted, UNI-Europa and Euro-CIETT focused their talks on the content of that directive in the hope of being listened to by the European Parliament and the Council. The Council reached a qualified majority agreement on the proposal on 10 June 2008. Following its approval by the European Parliament on 22 October 2008, the [directive](#) was officially adopted by the Council on 19 November 2008, with its entry into force scheduled for three years later. The Commission and the social partners – both cross-industry and sectoral – gave their backing to this agreement.

As is evident from the work programmes for 2008-2009 and 2009-2010, UNI-Europa and Euro-CIETT wish to continue their social dialogue on the topics of flexicurity (following up on their joint opinion of 2007) and vocational training, but they also intend to analyse the cross-border activities of temporary work agencies, promote national social dialogue and also of course monitor legislative developments within

Europe (employment contracts, the posting of workers, etc.) and internationally (ILO Convention No. 181, decent work, non-discrimination, etc.).

## OUTCOMES

**The start of an “official” sectoral social dialogue in the temporary work sector was closely linked to EU efforts to regulate this sector. These regulatory efforts were initially undertaken, without success, by the cross-industry social partners, and then in a legislative context by the Community institutions. The borderline between “cross-industry” and “sectoral” in this area of social dialogue has therefore remained vague.**

It may in fact come as a surprise that the content of the temporary agency work directive was not negotiated directly by UNI-Europa and Euro-CIETT. They did however spend the first decade of the 2000s trying to put across their shared points of view on the document’s content. What has so far developed between them since the turn of the millennium is in essence, therefore, a social dialogue geared to lobbying activity, given that the social partners saw a need to influence the content of the directive.

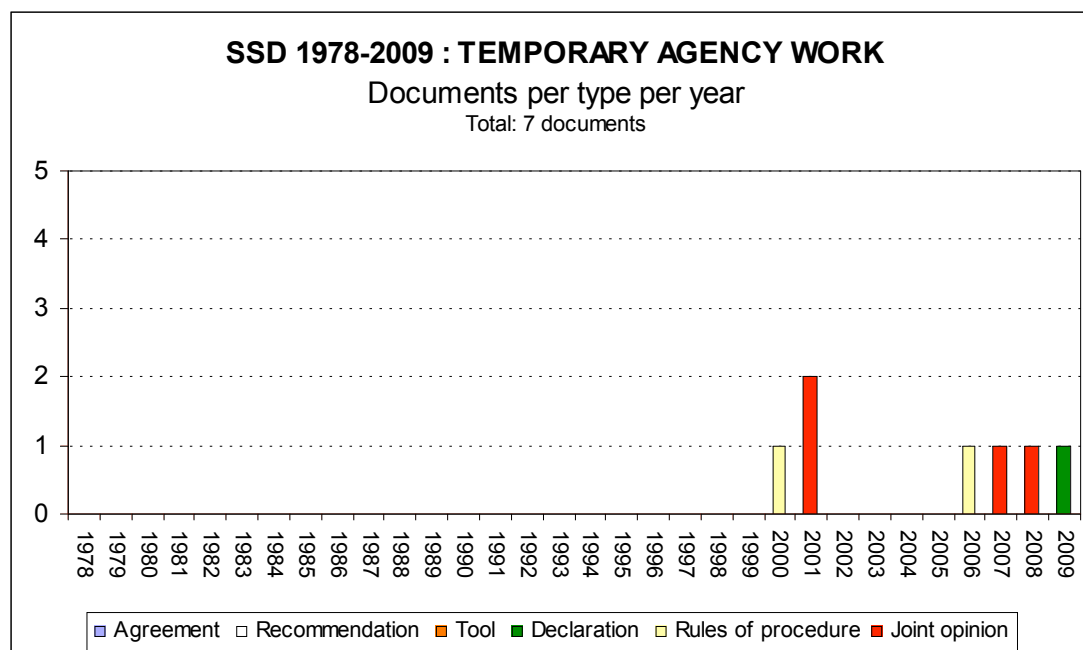
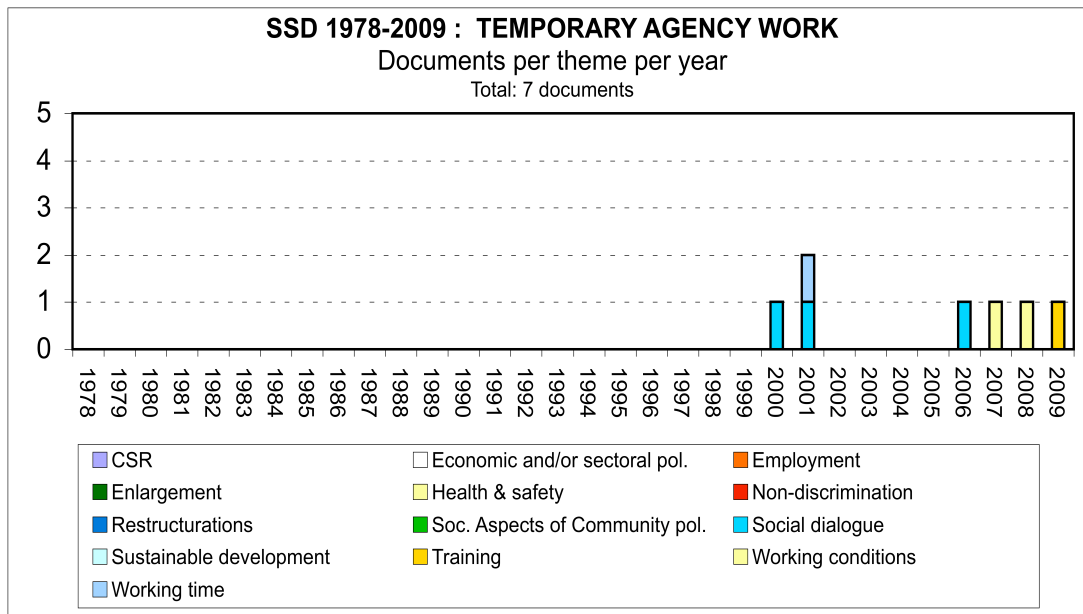
The most contentious issue in the directive, namely equal treatment for temporary agency workers and staff of the user company, has been resolved. The directive no longer stipulates a general waiting period before the principle of equal treatment comes into effect: it is only possible to deviate from this rule where a collective agreement or, under certain circumstances, a specific agreement has been signed by the national social partners. The social partners are also given responsibility for checking on the implementation and enforcement of this principle in practice, thereby ensuring flexibility as well as protection for workers.

EuroCIETT reacted positively. According to its Managing Director, [Denis Pennel](#), the agreement “will, by aligning the protection granted to temporary agency workers, improve the image of a sector that is still all too often discredited”. It should be pointed out, lastly, that under the directive any existing restrictions or prohibitions on the use of temporary agency work must be justified by Member States before December 2011. Only where these can be explained on grounds of general interest – subject to verification by the Commission – may such measures be maintained.

It now remains to be seen where the temporary work sectoral social dialogue will go from here. As we have seen, the 2008-2009 and 2009-2010 work programmes indicate a desire to pursue dialogue on the topics of flexicurity, training, cross-border activity, etc. It nevertheless has to be acknowledged that this dialogue has hitherto focused more on lobbying than on reciprocal commitments. Only the 2009 “declaration” demonstrates a desire to engage in autonomous activity (in the field of vocational training).

## JOINT TEXTS

The “temporary agency work” sectoral social dialogue has resulted, since 2000, in the adoption of 7 joint texts.



<b>Date</b>	<b>Title</b>	<b>Theme</b>	<b>Type</b>	<b>Addressee</b>
03/12/2009	Training for Temporary Agency Workers: Joint actions developed by sectoral social partners play a key role in facilitating skills upgrading	Training	Declaration	National organisations
28/05/2008	EuroCIETT/UNI-Europa Joint Declaration on the Directive on working conditions for temporary agency workers	Working conditions	Joint opinion	European institutions
28/02/2007	Joint Declaration within the framework of the "Flexicurity debate" as launched and defined by the EU Commission	Working conditions	Joint opinion	European institutions
20/10/2006	Rules of procedure	Social dialogue	Rules of procedure	European social partners
08/10/2001	Euro-CIETT/UNI-Europa Joint Declaration Objectives of the European Directive on Private Agency Work	Working Time	Joint opinion	European institutions
03/07/2001	Euro-CIETT/UNI-Europa Joint Declaration on the Sectoral Social Dialogue on Agency Work	Social dialogue	Joint opinion	European institutions
03/07/2000	Joint declaration on the sectoral social dialogue on Agency Work	Social dialogue	Rules of procedure	European social partners