

Posting of agency workers: the inter-relation between PWD and AWD



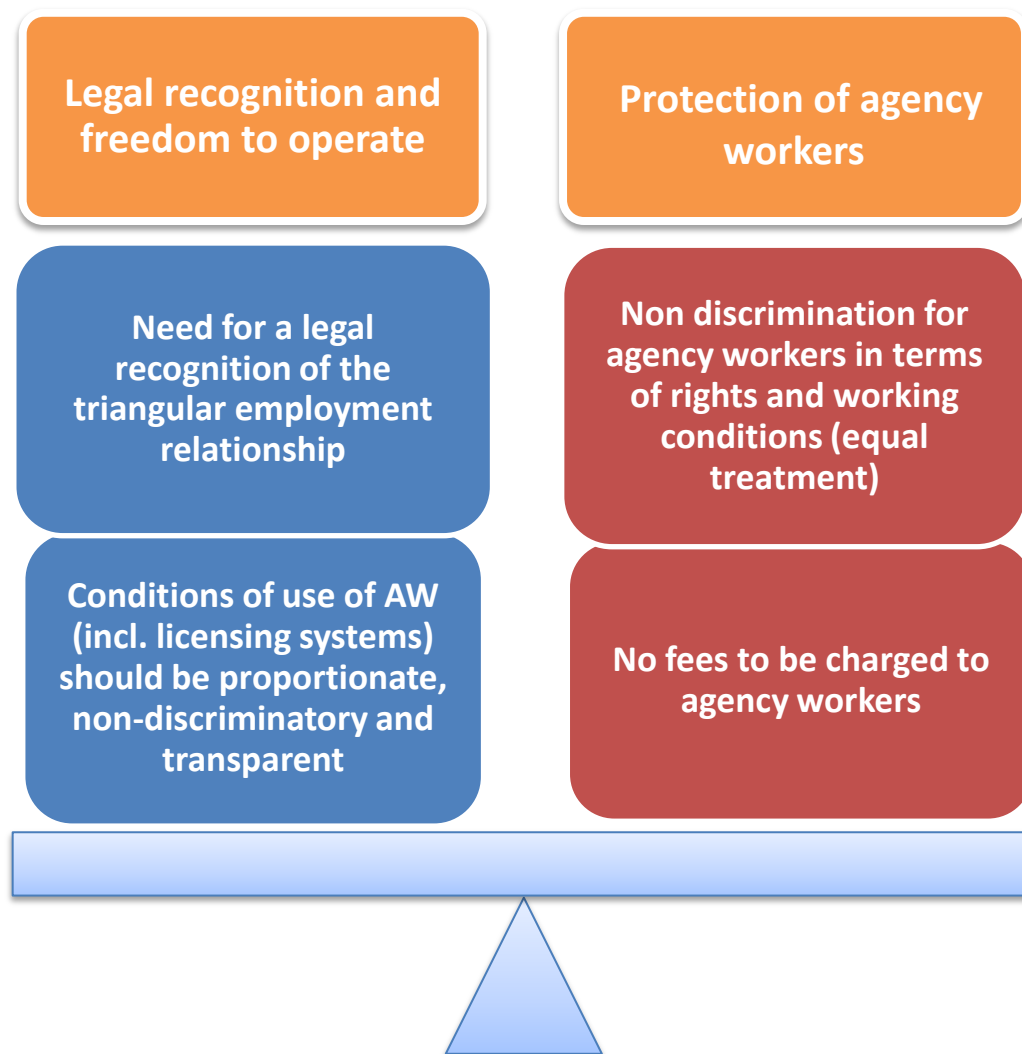
Eurociett in a nutshell

- Represents 35,000 companies (50,000 branches), employ 230,000 internal staff and more than 3 million agency workers on a daily average (full time equivalents) and around 9 million a yearly basis (headcounts)
- Is the only association representing agency work:
 - At large: brings together 30 national federations
 - In its diversity: uniting 6 of the largest multinational staffing companies as well as tens of thousands of SMEs
- Represents the broad spectrum of HR activities: temporary agency work, recruitment, interim management, executive search, outplacement, training
- Is the only authoritative voice representing the interests of agency work businesses in Europe:
 - Accounts for more than 90% of the total sales revenues of the industry
 - Recognised as such by the EU Institutions as well as by key European stakeholders (e.g. ETUC, BusinessEurope, social NGOs, think tanks)
 - Is the employers' official social partner within the EU sectoral social dialogue on temporary agency work (facing UNI-Europa)

Countries represented by Eurociett



Adoption of the Agency Work Directive: a twofold objective



Content of the Agency Work Directive (AWD): A balanced outcome

Preamble:

“TAW contributes to job creation and to participation and integration in the labour market”

Lifting of unjustified
restrictions
(Article 4)

Common minimum
standards for agency
workers
(Article 5)

Obligation to review
restrictions once
within three years
after entry into force
of the Directive

Principle of equal
treatment applies
from day 1

Restrictions are only
justified on limited
grounds. Unjustified
restrictions must be
lifted

Possibility to derogate
from the principle at
national level (3
derogation clauses)

Agency Work Directive: key provisions

Article 4: review of restrictions

- prohibitions and restrictions on the use of TAW only allowed on a limited number of grounds, of general interest:
 - protection of temporary agency workers
 - health and safety at work
 - ensure that labour markets function properly & prevent abuses

Article 5: principle of equal treatment

- equal treatment from day 1
 - covering pay and basic working conditions (pay, working time and overtime, holidays)
- 3 forms of derogation of equal pay:
 - for open-ended contracts (UK, Sweden, Denmark)
 - through CLA (Netherlands, Germany and Scandinavian countries)
 - through agreement by social partners (UK)
- All conditions of the Agency Work Directive had to be transposed in national legislation of all EU Member States by December 5th 2011

Posting of Workers Directive (PWD) already provides extensive protection for the agency workers

- Art 3.1: Terms and conditions of employment to be applied include those defined by law or collective agreements (being universally applicable), with a specific reference to « the conditions of hiring out of workers, in particular the supply of workers by temporary work agencies »
- Art 3.7 « Paragraphs 1 to 6 shall not prevent application of terms and conditions of employment which are more favourable to workers »
- Art 3.9: Member States may provide that temporary work agencies must guarantee agency workers the terms and conditions which apply to temporary workers in the Member State where the work is carried out

Inter-relations PWD & AWD: a mutual reinforcement

- Barriers to posting will be reduced
 - AWD will create some harmonisation regarding national regulation on temporary agency work
 - Unjustified restrictions on the use of temporary agency work should be lifted (Art 4 of AWD), facilitating mobility of agency workers
- Scope
 - AWD protects « domestic » agency workers while PWD protects EU cross-border agency workers
- Terms and conditions of employment
 - More comprehensive list in PWD than in AWD (covers pay, working time and overtime, holidays)
 - But AWD establishes the equal treatment principle for the basic employment and working conditions
 - Article 3.9 of PWD allows for more extensive protection in the case of temporary agency workers

Conclusion: Eurociett position on PWD

- As far as temporary agency work is concerned, no need for a revision of the directive
- But better enforcement at national level and more information exchange/administrative cooperation between Member States are needed
- Lack of consistent and reliable data on posted workers => need for better monitoring of the facts and figures
 - Eurociett and UNI Europa set up an Observatory on TAW Cross-Border activities and drafted national fact sheets on conditions to post agency workers
- Eurociett welcomes in principle the proposed enforcement Directive (to be made public in February) as it should help to clarify issues and solve lack of proper enforcement



Thanks!

Questions?



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