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Private employment agencies in the Netherlands, Spain and Sweden

Gijsbert van Liemt

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Abbreviations

ABU	(Dutch) Association of Temporary Work Agencies (<i>Algemene Bond Uitzendondernemingen</i>)
AETT	State Association for Temporary Work (<i>Asociación Estatal de Trabajo Temporal</i>)
AGETT	Association of Major Temporary Work Agencies (<i>Asociación de Grandes Empresas de Trabajo Temporal</i>)
ASEMPLEO	(Spanish) Temporary Work Agencies Association (<i>Asociación de Empresas de Trabajo Temporal</i>)
AR	Annual Report
CAO	Collective Labour Agreement (CLA – <i>Collectieve Arbeidsovereenkomst</i>)
CCOO	<i>Confederación Sindical de Comisiones Obreras</i> (Spanish Blue-collar Trade Union Confederation)
CFH	Certified Flex Housing
CIETT	International Confederation of Private Employment Agencies
CLA	Collective Labour Agreement
CNV	(Dutch) National Federation of Christian Trade Unions
EPL	Employment Protection Legislation
ETA	Basque Homeland and Freedom (<i>Euskadi Ta Askatasuna</i>)
EU	European Union
EuroCiett	European Confederation of Private Employment Agencies
FEDETT	(Spanish) Federation of Temporary Work Agencies
FNV	Netherlands Trade Union Confederation (<i>Federatie Nederlandse Vakverenigingen</i>)
GDP	Gross Domestic Product
HAO	Swedish Commerce Employers Association (<i>Handelns och Tjänsteföretagens Arbetsgivarorganisation</i>)
HTF	White-collar Trade Union Federation (<i>Handels) Tjänstemannaförbundet</i> – now part of <i>Unionen</i>)
ILO	International Labour Office <i>or</i> International Labour Organization
INEM	National Employment Institute (<i>Instituto Nacional de Empleo</i>) now: <i>SPEE Servicio Público de Empleo Estatal</i>
LAS	<i>Lag 1982:80 om Anställningsskyd</i> (Employment Protection Act 1982:80)
LBV	<i>Landelijke Belangen Vereniging</i> (National Employee Interests Association)
LO	(Swedish) Blue-collar Trade Union Confederation (<i>Landsorganisationen</i>)
NBBU	Association of Temporary Work and Placement Agencies (<i>Nederlandse Bond van Bemiddelings- en Uitzendondernemingen</i>)
NEN	Dutch Standardisation Institute (<i>NEderlandse Norm</i>)
MSP	Managed Services Programme
OECD	Organisation for Economic Cooperation and Development
PrEA	Private Employment Agency
PEP	Proximity Employment Programme (<i>Programa Empleo Proximidad</i>)
PP	<i>Partido Popular</i> (Spanish political party)
RD	Royal Decree
RPO	Recruitment Processing Outsourcing
SER	Socio-Economic Council (<i>Sociaal Economische Raad</i>)
SECTOR	Sectoral Activities Department (ILO)
SFT	Financial Testing Foundation (<i>Stichting Financiële Toetsing</i>)
SFU	Social Fund for the Temporary Work Agency Branch (<i>Stichting Fonds Uitzendbranche</i>)
SME	Small and Medium-sized Enterprise
SNA	(Dutch) Labour Standards Foundation (<i>Stichting Normering Arbeid</i>)

SNCU	Compliance with the Temporary Work Agency Branch CLA Foundation (<i>Stichting Naleving CAO Flexbranche</i>)
SPEE	National Public Employment Service (<i>Servicio Público de Empleo Estatal</i>)
SSA	Swedish Staffing Association (<i>Förbund Bemanningsföretagen</i>)
STAF	Working Conditions in the Temporary Agency Work Branch Foundation (<i>Stichting Arbo Flexbranche</i>)
STIPP	Pension Fund for Staffing Branch (<i>Stichting Pensioenfonds voor Personeelsdiensten</i>)
STOOF	Training and Development Foundation for the Temporary work branch (<i>Stichting Opleiding en Ontwikkeling Flexbranche</i>)
TA	Temporary Agency
TWA	Temporary Work Agency
UGT	General Union of Workers (<i>Unión General de Trabajadores</i>)
UWV	<i>Uitvoeringsinstantie voor werknemersverzekeringen</i>
VAT	Value Added Tax
ZZZP-er	Self-employed without personnel (<i>Zelfstandige Zonder Personeel</i>)

Preface

This paper, written by Gijsbert van Liemt, discusses the development of private employment agencies (PrEAs) in the Netherlands, Spain and Sweden, highlighting some of the main issues of concern to the agency industry. Its focus is on the period after the early 1990s, when their activities were legalized in Spain and Sweden. In the Netherlands, they had been allowed to operate much earlier. The paper places the industry's development in the context of changes in the economy, the labour market, and the regulatory framework. The latter has undergone significant change through legislation at the national and international level, and through self-regulation. In the period concerned, Dutch and Spanish agencies expanded at a comparatively slow pace (although at different levels). The availability of rival forms of labour market flexibility played a role in this. In Sweden, these other forms are largely absent and that country is where the private employment agency industry expanded the most. The responsibility for opinions expressed in this paper rests with the author, and publication does not constitute an endorsement by the ILO of the opinions expressed in it.

This is one of several research studies prepared in 2013 for the Sectoral Activities Department (SECTOR) on the impact of the Private Employment Agencies Convention, 1997 (No. 181); the framework for operation of such agencies; employment conditions; and treatment as regards such issues as pay, social protection, leave and pensions in selected countries, providing sectoral information as appropriate. The first such paper, on Morocco, was published in September 2011. The 2013 studies – on Argentina, Chile, China, South Africa and Uruguay – consist of (a) statistical and empirical research on private employment agencies and agency work and/or (b) legal research on whether and how the provisions of Convention No. 181 are reflected by laws and regulations and by practice in selected countries.

The initial proposal to carry out this research on the impact of the Private Employment Agencies Convention, 1997 (No. 181) was proposed at the Sectoral Advisory Body for Private Services Sectors in October 2010 and recommended by the Sectoral Advisory Body Meeting in January 2011. The proposal was endorsed at the March 2011 sitting of the ILO's Governing Body. At the March 2012 sitting the Office was asked to bear in mind for future work the views expressed by the participants in the Global Dialogue Forum on the Role of Private Employment Agencies in Promoting Decent Work and Improving the Functioning of Labour Markets in Private Services Sectors (October 2011), as summarized in the *Final report of the discussion*. These research papers were prepared taking into account those views, and are preliminary documents intended – like other SECTOR Working papers – to stimulate discussion and critical comment, and should not be considered as ILO policy papers or documents. The ILO uses the term “private employment agency *industry*” (not “sector”, an inappropriate word to refer to such a cross-sectoral industry). We use the term “sector” for a more distinctive and well-delineated category of industries that can be clearly distinguished from other sectors of the economy, and our Department currently works on 22 such sectors.

SECTOR promotes decent work by addressing social and labour issues in various economic sectors, both at international and national levels. By tackling challenges for specific sectors, the International Labour Organization (ILO) assists governments, employers and workers to develop policies and programmes that generate decent employment and improve working conditions in each sector. SECTOR's integrated approach links up with the entire Decent Work Agenda, allowing the ILO to respond comprehensively to specific needs of the sectors in relation to employment, social protection, labour rights and social dialogue issues.

John Myers
Head of the Public and Private Services Unit
Sectoral Activities Department

Introduction

As a cyclical business, the temporary work agency (TWA)¹ industry is suffering disproportionately from the current economic downturn in Europe. The industry is also affected by structural changes. Governments desperate to combat rising unemployment and make the labour market function more efficiently appear to be taking an ever more positive view of the role and the contribution that private employment agencies (PrEAs) can make. The liberalisation of the labour market can also be a threat, however, as rival formulae of labour market flexibility challenge PrEAs as a business model. All in all, it is fair to say that PrEAs have generally become a more accepted player in the European labour market as many trade unions have dropped some earlier opposition to their operations (although there have also been signs of renewed trade union opposition in recent times). In exchange, leading PrEAs have made considerable efforts to show their “social face” by, inter alia, contributing towards the adoption of social regulations governing their business at the national, European and international level. Self-regulation is being used to draw a firm line between the respectable agencies on one side and those operating in the margins or outside the law on the other.

There are thousands of private employment agencies in operation in the three countries under examination. Capital requirements are small and other barriers to entry are also low. Some are large, internationally operating companies. Many others have just a few employees. All are involved in the triangular relationship between the agency, the worker and the user company.

Many struggle to find significant ways to differentiate their ‘product’ from that of their competitors. As a representative of a transnational staffing firm operating in Sweden was quoted as saying (in Coe et al., 2009, p.77) about their table of offers compared to the market leader:

”...they talk about their highly trained temps, I talk about my highly trained temps; they talk about 100 per cent guarantee if the customer is not happy, I talk about the same guarantee; they talk about a response time of four hours, we talk about the same thing...It is difficult; I don’t believe that temporary workers within our company are much better or worse off than they are at our rivals” (Coe et al., 2009, p.77).

The major agencies stress the advantages of their size, their long experience, their international network and their financial solidity. Smaller companies focus on regional, sectoral or occupational “niches”. Others stress their more personalised business model, or their core ethical values.

In addition, the agencies broaden the range of services they offer: from staffing to payroll services, outplacement, outsourcing, and search and selection. *Randstad*, a leading international PrEA, reports that global demand for two activities is growing particularly fast. These are (1) Recruitment Process Outsourcing (RPO), in which agencies take over their clients’ recruitment process in whole or in part, and (2) Managed Services Programmes (MSPs), in which the temp agency takes responsibility for the overall organization and management of a client’s temporary staffing needs (Randstad 2012 AR p.31).

¹ The terms private employment agency (PrEA) and temporary work agency (TWA) are hereafter used interchangeably.

The institutional framework

PrEAs do not operate in a vacuum. They are bound by the rules and regulations set by the (commercial, labour, and administrative) law and collective agreements. The country chapters (2-4) give details about the national institutional framework in which the PrEAs operate.

The labour market deregulation drive of the past two decades has been good for the PrEAs. However, deregulation is not uncontroversial, and opponents tend to blame PrEAs for the precarious situation in which a growing number of people find themselves.

The large, internationally active companies tend to operate in a transparent fashion and take great care to be seen as responsible and ethical. But there are also smaller PrEAs that operate in grey areas of what is acceptable or even legal behaviour. Others simply cheat their employees and break the law. They violate health and safety procedures, falsify wage slips, fail to pay taxes and social security premiums, deduct excessive amounts for payment of housing and transport to work, not to mention debt-bondage, bullying, harassment or even physical violence.

Licensing was long compulsory, but has been abolished. However, nostalgia for regulation exists even in the European country with perhaps the most liberal PrEA regime:

“Since abolishing the licensing system, the UK trade unions have been lobbying for its return, on the grounds that the fragmented nature of the business makes preventing abuses more difficult. Agencies too have been asking the UK government for a return of the license requirement in order to weed out ‘cowboy agencies’” (Vaes et al., 2009, p.24)².

Self-regulation can complement the law. In an effort to set its members apart from disreputable agencies and raise their profile in the process, the Swedish Staffing Association (SSA) decided in 2007 that all its members needed to be certified, to be bound by a Collective Labour Agreement (CLA), and to fulfil twelve conditions for authorization (see Box 7). In the Netherlands the SNCU Foundation for Compliance with the Temporary Work Agency CLA (the “CLA police”) and the industry’s labour standards foundation SNA are collaborating closely with immigration, municipalities, the tax authorities, labour inspectorate and others to weed out those agencies associated with fraud and abuse. The industry’s Social Fund finances a training and development fund and a fund that works towards improved working conditions. There is a PrEA industry pension fund and a Certified Housing Certificate to guarantee proper housing for labour migrants (see section 2.4).

Workers’ organizations, whose job it is to promote the establishments of rules and regulations governing the labour market, understandably view attempts to deregulate that market with suspicion. For example, many Swedish trade unionists consider that PrEAs do not create any new jobs but take away “our” jobs: hence the reason why a top priority for these unions is to bargain for equal rights and payments for temporary agency workers, so as to make their use cost-neutral and so avoid unfair competition. Eklund’s analysis of the Swedish situation is illustrative:

A key motive behind [Sweden’s blue-collar trade union confederation]LO’s support for the conclusion of collective agreements with the staff agencies was that the

² The United Kingdom did pass the Gangmasters (Licensing) Act 2004, but this Act only addressed the interests of workers in agriculture, forestry, horticulture, food packing and processing, and shellfish gathering.

Confederation wanted to prevent a situation in which it was cheaper for the user enterprise to engage labour provided by a staff agency than to have permanently employed staff to do the same work. In other words, LO's incentive for concluding an agreement was to avoid social dumping, or distortion of competition on the labour market. It is also argued that the collective agreement will make the staff agencies more acceptable on the Swedish labour market. The employer party had been, of course, in great need of such agreement... (Eklund, 2009, p.153).

Public employment offices and private employment agencies

In recent years, there has been a "rapprochement" between the private employment agencies and the public employment service. Contacts often started at the local level or focused on "target groups" such as young people, the long-term unemployed, immigrants and older workers. The experience of different countries varies, of course. In Sweden, there are no reports of systematic contacts at the central level. The public employment office *Arbetsförmedlingen* does employ placement officers supplied by a PrEA. In some public offices, PrEAs take part in recruitment days and give lectures to jobseekers on how to write a CV and on how CLAs function. Some also supply job-coaching services (Cederholm, 2010). In Spain, some local SPEE public employment offices have signed agreements with PrEAs. SPEE also makes use of PrEA agency workers to fill some of its own positions. Law 35/2010 defined the modalities for collaboration between PrEAs and the public employment service. However, on the whole, it is fair to say that in Spain and Sweden collaboration between private and public agencies is timid at best.

In the Netherlands, on the other hand, contacts between the public employment service UWV and PrEAs have become close in the past five years, partly because of cuts in the public budget that reduced the resources available to the public employment service. Due to these budget cuts, it is increasingly difficult for that service to give job seekers much personal attention. Most contacts with jobseekers take place electronically.

Cooperation between PrEAs and the public employment service goes back to the 1980s. Until 2008, this collaboration was mainly restricted to certain target groups and to situations of mass dismissal or restructuring (establishment of private mobility centres). Today, however, public-private cooperation "is quite fully anchored in Dutch labour market policy and administration" (Voss 2013 p.94).

Private employment agencies are located at the central floor of the "Work plaza" (*werkplein*)³ where they help people trying to find a job. Persons who become unemployed no longer need to present themselves in person at the public employment service but they must show that they have been registered at a PrEA. As one interviewee put it: "...the advantage of having the temporary work agencies present at the workplaza (*werkplein*) is that this still gives jobseekers a chance to meet a real person [i.e. an employee of a PrEA]....".

Since February 2011, the public employment service UWV invites people who have recently become unemployed to their offices for "speed dating", short interviews with representatives of different PrEAs with the purpose of quickly determining whether the PrEA might be able to offer them a job.

³ Both the municipal social services and the public employment service are present at a workplaza, together with PrEAs and other organizations involved in training, education and re-integration.

An unemployed person asking for an unemployment benefit is obliged to accept a new job not only through UWV but also through a PrEA. This is remarkable given that public employment offices are charged with helping finding a job whilst PrEAs help people find a *temporary* job. “It is standard UWV practice to get the unemployed back into a job as soon as possible and the first thing UWV often does is to send someone who comes to register as unemployed straight on to a PrEA” (Economist Dr. Marloes de Graaf-Zijl in *Brabants Dagblad*, 30 October 2012).

Collaboration between the two types of employment agencies is set to intensify. In November 2010 Dutch PrEA associations ABU, NBBU and STOOFF, and public employment service UWV established “*Service Punt Flex*” (Service Point Flex). This is a jointly financed, two-people team (one with a public employment service and one with a private employment agency background) whose only job it is to build bridges and make sure that collaboration between the private and public agencies improves and intensifies around the country, at all levels⁴. The team does this by providing information about available subsidies, other pertinent rules and regulations, speed dating, and other services relevant for public-private collaboration. The team is also tasked with identifying trends, opportunities and problems that need action or discussion by the public-private partners.

This paper is organized as follows. A brief introduction to the three countries concerned (chapter 1) is followed by individual country chapters (chapters 2 to 4) which first provide some background on each country’s economy and labour market, and on the institutional framework before discussing the development of the PrEA industry in the last two decades. Unavoidably, the paper will give particular attention to the situation in the Netherlands because this country is widely regarded as “a forerunner of the regulation of temporary agency work as well as other forms of flexible work that combines flexibility with a high degree of social security” (Voss et al., 2013, p. 39).

A note on sources. This paper is based on a number of interviews (see the annex for a list with the people interviewed) and on published sources, of which the main ones are listed at the end of the paper. Eurofound’s European Industrial Relations Observatory on-line (EIROOnline)⁵ was a particularly useful source. The author gratefully acknowledges the comments made by Carin Håkansta and John Myers.

⁴ www.servicepuntflex.com

⁵ <http://www.eurofound.europa.eu/eiro/>

1. An introduction to the three countries

This paper considers the private employment agency industry in three countries: the Netherlands, Sweden and Spain. It highlights some of the main issues of concern to the agency industry, and how the industry has developed over the last two decades, a period of considerable turbulence. At the time of writing it is, for example, still not clear whether the European economies have successfully managed to cope with the long-term consequences of the 2008 economic and financial crisis. In addition to low demand, labour markets are also faced with structural challenges such as those to do with the ageing population and labour force, and the tight budget situation. The rules governing the labour market and PrEAs have also undergone considerable change. All three countries are bound by the 2008 European Agency Work Directive (see Box 1).

Box 1: The European Temporary Agency Work Directive

On 20 October 2008, the European parliament adopted the Directive on Temporary and Agency Work that aims to guarantee temporary agency workers the same treatment, payment and other conditions of employment as permanent employees at the user enterprise in a comparable position.

“The basic working and employment conditions of temporary agency workers shall be, for the duration of their assignment at a user undertaking, at least those that would apply if they had been recruited directly by that undertaking to occupy the same job” (art. 5(1)).

However, to illustrate the fact that Member States could not reach unanimous agreement the Directive allows for several derogations and leaves room for interpretation concerning e.g. the exact definition of “basic working and employment conditions” and the understanding of “pay”. One of the derogations (“the Nordic derogation”) is defined in art. 5(3) of the Directive which allows Member States to give social partners the option of concluding collective agreements that establish arrangements which differ from the equal treatment, while still respecting the overall protection of agency workers (Voss et al., 2013; Malyar 2010).

In addition, the Netherlands and Spain have ratified ILO Convention No. 181. Sweden has not ratified it and in all likelihood will not do so in the near future.

Background

The European economy is in poor shape. Economic growth is slow. Disposable incomes are falling. Unemployment is high and rising. Expectations for a return to the good economic growth rates of yesteryear are fading. If it were not for the comparatively good performance of the German “locomotive” the whole European economic train might well have ground to a halt.

Governments anxious to halt the rise in unemployment and to kick-start their economies have tried every recipe in the book but on the whole with limited success. To contain the effects of the 2008 financial crisis on the broader economy, European governments engaged in costly rescue operations of their domestic banks, in an effort to maintain employment at good levels. Nevertheless, this was at most partly successful as illustrated by current slow economic growth and rising unemployment.

EU governments are, in addition, under pressure from two structural factors. First, under close watch from “Brussels”, they must keep their public debt and budget deficits below certain levels⁶. Second, they have to cope with the financial consequences of their rapidly ageing populations and labour force. This has placed many in an awkward position. In a generally tight budgetary situation, these governments are under pressure to choose between solidarity with fellow European member countries in financial problems⁷, and coping with the costs of intergenerational solidarity back home.

That is not to say that the economic situation is the same in all three countries. Among them, Spain is no doubt in the worst situation. Since 2008, the country has not really seen any economic growth. In just a few years unemployment increased from a low of 8.3 % in 2007 to a record-breaking 27% in March 2013. This spectacular increase occurred after a period in which the Spanish economy had shown impressive growth and created millions of jobs. Unemployment decreased in a period in which the economy also created jobs for millions of immigrants. After 2008, the banks stopped lending to property developers and the overheated construction sector, which had been the engine of Spain’s economic growth, collapsed.

The Netherlands, long known for having the lowest unemployment rates in Europe (on average below 4% in the first decade of the 2000s) is witnessing a sudden drastic turn for the worse that started in the second half of 2012. A collapse in consumer confidence, partially fuelled by the uncertainty related to government’s efforts to re-regulate the housing market, was a key factor.

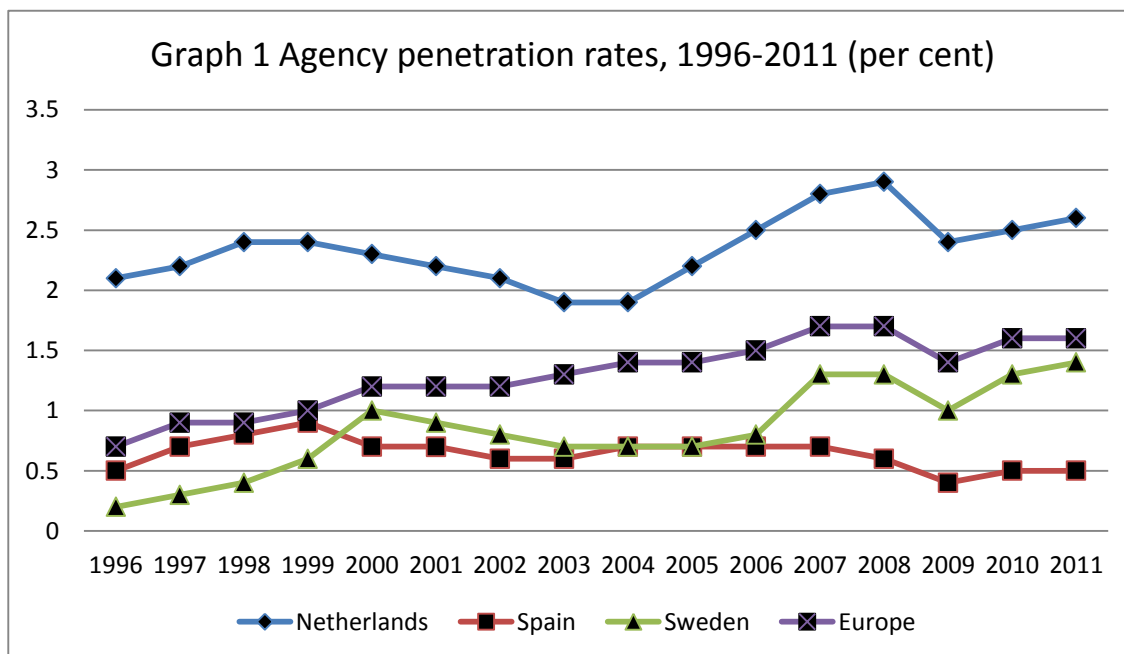
Compared to the other two countries, the Swedish economy is in fairly good shape (but unemployment rates are between 7 and 8%). Sweden went through a serious crisis in the early 1990s. Like the other two countries, Sweden is a member of the EU but unlike the others, it is not a member of the Eurozone. Swedish banks have considerable exposure to the Baltic States and so, indirectly, the Swedish financial system was affected by the 2008 crisis in these states. Timely action by the authorities, helped by Sweden being able to “fine-tune” its monetary policy (and an improvement of the Baltic economies), succeeded in redressing the situation.

To a varying degree, each of the three countries’ labour market regulations has come under intense scrutiny. As unemployment rates crept up, governments have taken initiatives to reform the labour market. This is particularly the case in Spain where – since 2008 – nearly every year has brought a new reform proposal. Labour regulations that had been in place when the Spanish economy created millions of jobs in the earlier high growth period are being weakened, abolished or suspended by law or decree. Elsewhere the situation is less dramatic but the trend is clear.

⁶ According to the “Maastricht criteria” Eurozone countries are committed to not let the ratio of government deficit relative to GDP exceed 3%, and the ratio of gross government debt relative to GDP exceed 60%

⁷ and the indirect consequences of this for their own financial system.

Encouraging enterprises to invest and hire more people (or avoid them making people redundant) –despite the crisis – is high on the agenda of all governments. Frequently, measures to improve the “business climate” include changes in the labour law, the argument being that making labour markets more flexible constitutes a necessary response to the crisis. In some countries, this has been done piecemeal, while in others this involves “far-reaching overhauls of the whole labour code [...and...] fundamental changes ... to industrial relations structures and processes” (Clauwaert et al 2012, p.6-7).



Source: CIETT, 2013.

Private employment agencies in the Netherlands, Spain and Sweden

According to CIETT data, the PrEA penetration rate in Europe shows a fairly steady increase from 0.7% in 1996 to 1.6% in 2011 (see graph 1). However, this average hides considerable differences. According to the same source, the penetration rate in Spain at 0.5% was as high in 2011 as it was in 1996 (it did go up rapidly in the late 1990s). In the Netherlands, this rate has long been consistently above 2% although on balance it showed only a marginal increase (from 2.1% in 1996 to 2.6% in 2011). The decline from 1998 to 2004 must be seen in the light of the labour market deregulation that took place in the late 1990s. Sweden is the country where the penetration rate has gone up the most since the mid-1990s, from 0.2% in 1996 to 1.4% in 2011, still below the European average.

The countries also differ in the average age and level of education of temporary agency workers, and in the typical length of assignments. Swedish temporary agency workers are typically over 26 and have at least completed secondary education. Most are on assignments that last at least three months. Spanish temporary agency workers, in contrast, are typically on short (less than one month) assignments. They are mainly between 25 and 45 years of age. A significant minority has not completed secondary education. In the Netherlands, most workers have at least a secondary school diploma. Dutch temporary agency workers are young; a little

less than half are under 26. Only 20% were on an assignment of more than 3 months duration in 2011.

Temporary agency work has long been part of the Dutch labour market. It is well established and socially accepted. However, a main concern of the industry is how to cope with the many rogue agencies that give the industry a bad name. The rise of other types of flexible contracts is another challenge to the PrEAs.

In Sweden, attitudes towards the industry are mixed, as befits a phenomenon that has gained importance in a relatively short time. Many identify the industry with all that they dislike in the flexibilization of what is otherwise a well-regulated labour market. Rogue agencies appear not to be seen as an issue in Sweden. Sweden has recurrent problems with unscrupulous agents placing (temporary) immigrant berry pickers and tree planters but the numbers involved are comparatively small. Both social partners are highly organised.

The Spanish labour market has been characterised by a high percentage of workers on temporary contracts (around one third of all wage earners in the early 2000s) and the inflow of millions of (mainly Latin American) immigrants in search of a job. Workers on temporary contracts have been the first victims of the Spanish job crisis. As a result, their share of the total had dropped to 25% in 2011.

The chapters that follow look in more detail at the situation in the three countries. It was considered that some background information about the economy and the labour market would help understand the role and development of PrEAs in each country. The same is true for the institutional framework – legislation, collective labour agreements and self-regulation – which to a large extent is responsible for how PrEAs have developed over time. We provide the main changes in the law and in CLAs in the past two decades, but such an exercise is by its nature incomplete. The regulatory framework is in constant change. Regulations are often complex. To assess how laws and collective agreements interrelate is even more complex and clearly falls outside the scope of this paper. In addition, as Randstad (AR 2012) has pointed out, PrEAs may be legally accepted but that does not necessarily imply that they have been socially accepted.

2. The Netherlands

2.1 Introduction

PrEAs have been active in the Netherlands for over 50 years. They are a widely accepted part of the labour market. On the whole, this labour market has become more flexible. The thickness of the “flexible layer” has expanded, partly as a result of new legislation. PrEAs see their share of the market threatened by “new” and upcoming formulas such as “payrolling” and contracting. Rogue agencies are a persistent problem that is being taken very seriously by law enforcement.

2.2 Economy and labour market

For over a decade, the Netherlands had one of the lowest unemployment rates in Europe. In 2012, however, the economy started to decline. It did not grow in 2012 and is not expected to do so in 2013. This has led to rapidly rising unemployment and a downward adjustment of people’s living standards. The latter are also affected by the costs associated with the ageing of the labour force and the population, low fertility rates, and the rising dependency ratio.

As elsewhere, the slowdown of the economy has moved the debate on labour market flexibility higher up on the political agenda. Yet on many accounts, the Netherlands already has a flexible labour market. For instance, the PrEA penetration rate is well above the European average (see graph 1). In addition, the country has by far the highest share of part-time workers (and the lowest average number of hours worked) in Europe. *Half of all jobs* in the Netherlands are part-time jobs⁸.

In fact, the Netherlands has a considerable number of people on flexible contracts. The Dutch government agency UWV that closely follows Dutch labour market indicators has noted a long-term increase in the number of people in the ‘flexible layer’ (that includes workers on fixed-term contracts, agency workers and the self-employed). Its share of the labour force increased from 23% in 1996 to 34% in 2009 (see also Box 2).

⁸ Most part-timers are women but the number of men not working full-time is increasing. Working part-time enables people to combine work and care (for children and the elderly). Importantly, the level of social protection of those part-time jobs is not fundamentally different from those in full-time jobs. For instance, the rules governing paid holidays, parental leave, pensions, and protection against dismissal apply to full- as well as part-time workers.

Box 2: The Netherlands: the main components of the “flexible layer”

- Contracting (number of people per day in 2011: Unknown). A contractor takes on a specific job for a set price, works with his or her own people and tools, and organises and supervises the work. It is a growing phenomenon in agriculture and logistics. Often workers are Polish (temporary) migrants who receive no more than the minimum wage.
- On-call jobs (number in 2011: 334,000). Worker is available for work but the number of working hours is not specified and this can lead to great fluctuations in weekly or monthly income. On-call jobs can be useful in specific cases (e.g. undertaker) and other sectors where demand for labour is irregular and may increase suddenly (such as cafés, restaurants, or healthcare).
- Payrolling (2011: 144,000 people per day). The user company recruits, selects and supervises the workers but for the law these are employed by the payroll-organisation. The latter handles the administrative and other obligations typical of employers and so enables user companies to avoid the costs related to administration, dismissal and illness. 37% of all workers are over 45. They work mainly in cafés and restaurants, retail and wholesale trade and in education.
- Fixed-term contracts (number of people per day in 2011: 614,000) are used for work on project basis and as replacement in case of illness or pregnancy. Also often used as prolonged probationary period. Over 65% are younger than 35. They are mainly active in commerce, ‘other services’ and health care.
- Temporary agency work (number of people per day in 2011: 172,000)
- Own-account workers without employees (ZZP-ers; number of people per day in 2011: 728,000) are not employed, not covered by a CLA and are not automatically insured against illness and unemployment. An unknown share of the ZZP-ers are de-facto employees and independent in name only (main source: ABU).

Own-account workers (ZZP-ers)

The last group, the self-employed without personnel or own-account workers (*ZZP-ers* – literally: self-employed without personnel) stands out because, contrary to the other groups, it does not consist of employees who are automatically covered by (compulsory) unemployment and disability insurance. Their increase (from 570,000 in 2001 to 717,000 in 2010⁹) has been mentioned as one explanation for the Netherlands’ relatively low level of unemployment (Dekker et al. 2012; Bosch et al 2012).

Many *ZZP-ers* are only part-time own-account workers. Around 30-45% of those who start their own firm (initially) continue to work as a paid employee in order to even out the risks and advantages of each type of work (Dekker et al. 2012). Many survive on small incomes, adjusting their rates downwards when the economy is doing poorly.

The increase is explained by personal preferences, a lack of suitable jobs, and active government encouragement. Administrative rules have been simplified. Fiscal rules have made it more attractive to start one’s own firm. Since 2006, and under certain conditions, the unemployed can start a firm and keep their unemployment benefit (Bosch et al 2012).

⁹ In percentage terms this places the Netherlands roughly in the European middle group, ahead of Sweden, but well behind Spain and other Southern European countries.

Institutional factors also play a role. Over the years, the social security system has become less generous and it has become easier to make employees redundant. The gap between the income uncertainty of employees and that of own account workers has become less wide than it once was, making it more attractive for those with a regular job to become own account workers (Bosch et al 2012, p.7).

2.3 Institutional framework

In the Netherlands, there is nothing unusual about the social partners working together in areas of common interest. Their involvement is widely seen as contributing to economic and social stability. Labour relations are comparatively stable (but the country has seen and continues to see its share of industrial action). Employers and workers organizations representatives meet frequently at national and sector level. Together, they meet with Government to discuss both labour market and broader economic issues¹⁰. A typical feature of the Dutch model of consultation and consensus-seeking is the Collective Labour Agreement (*CAO-collectieve arbeids overeenkomst*) and its mandatory extension beyond the original parties to the negotiation.

The Netherlands is often cited as an example of a country that successfully managed to create a framework for combining flexibility and security in the labour market. The 1999 *Flexwet* (Law on Flexibility and Security), adopted after years of intense debate among the social partners, aimed to provide both the flexibility that some workers seek and that most employers want, and the employment and income security desired by workers. Arguably, the most important innovation of the *Flexwet* was the introduction of 3x3x3 rule that prolonged the period until an open-ended contract would start. After 3 years or three consecutive contracts, an open-ended contract exists unless there has been an interruption of three months or more. Another major provision concerns the definition of a workers' contract with a PrEA as a regular employment contract. The exception concerns the first 26 weeks when the so-called "agency clause" applies (see Box 3) (Keizer, 2011; Malyar, 2010).

The *Flexwet* is complemented by the WAADI (Labour Market Intermediaries Act) which has been in force since 1 July 1998. WAADI liberalised the PrEA industry by abolishing the licensing system, the ban on agency work in the construction industry as well as other restrictions relating to placement, maximum duration, worker redeployment, and the ability for PrEAs to prevent agency workers from entering into direct employment contracts with user firms. It reiterated the ban on the use of agency workers to replace workers on strike and the dual responsibility of user firms and PrEAs for the payments of social premiums and taxes (Keizer, 2011; Arrowsmith, 2006, Malyar, 2010).

Key earlier legislation specifically on PrEAs includes the 1930 Job Placement Act (*Arbeidsbemiddelingswet*) which prohibited for-profit employment services but left several aspects unregulated, thus allowing PrEAs to operate. In later years, a clear set of rules governing the industry became necessary, when a number of agencies were found not to pay tax, disrespect safety and health regulations, or not pay proper wages. This was done in the 1965 Temporary Work Act (*Wet op de terbeschikking stelling van arbeidskracht*). In 1970 a mandatory licensing system was introduced which, inter alia, set a maximum duration per assignment and prohibited agency work in construction. The 1991 Employment Services Act

¹⁰ Until 1995 the Government was obliged by law to consult the tripartite Social Economic Council (SER- *Sociaal Economische Raad*) before introducing new legislation.

(*Arbeidsvoorzieningenwet*) consolidated the regulations covering PrEAs but allowed CLAs to derogate from almost all provisions. The license system could not immediately be abolished because the Netherlands had ratified ILO Convention No. 96 that made the license system compulsory (Malyar, 2010).

2.4 Private employment agencies

Just like in Sweden (see chapter 4), the first private employment agencies hired out temporary typists, an activity that encountered considerable opposition from the authorities and the trade unions. The length of assignments was limited. Rates were controlled. In 1961, six agencies decided to create a lobbying organisation, ABU, the Dutch Federation of Private Employment Agencies. By 1965, around 180 PrEAs were in operation (ABU, 2011). A first CLA for agency workers was signed in 1971. During the economic crisis of the early 1980s, the then Prime Minister Lubbers lauded the positive role that the agencies played. All in all one can say that in the Netherlands temporary work agencies were confronted by the same or similar opposition as elsewhere but through dialogue and a constant readiness to present themselves as a responsible actor with a social face, they became a generally accepted part of the labour market. They engage in self-regulation and work closely with law enforcement to help weed out rogue agencies. They established a training and development Fund –STOOF – in 2003; and SNCU in 2004 (see Box 5). A more recent initiative is the Certified Flex Housing Initiative¹¹ (Source: ABU).

Temporary work agencies are bound by the *Flexwet* but, as often in the Netherlands, employers and workers are allowed to deviate from the legal rules through Collective Labour Agreement (CLA) (the Law being “three quarters compulsory”) . In fact, the temporary agency labour force is covered by two CLAs. The one concluded by the main employer organization ABU has been declared generally binding except where the CLA concluded by rival organisation NBBU (Association of Temporary Work and Placement Agencies) applies. NBBU was created in 1994, has more members (895) than ABU (500), but a smaller market share (25% against 65% for ABU). NBBU members are small and medium sized agencies. ABU groups (and is seen as defending) above all the bigger, including the major, international agencies.

Box 3: The Netherlands: Employment security in phases

Both ABU and NBBU have a phase system, with employment security rising as the worker reaches a higher phase.

There are three phases (A to C) in the current collective Labour Agreement (2009-2014) concluded between ABU and four trade unions (*FNV Bondgenoten*, *De Unie*, *CNV Dienstenbond*; and *Landelijke Belangen Vereniging LBV*). As a rule, employees start in Phase A and, provided they stay the course, end up in Phase C. Phase A lasts at most 78 weeks. In this phase the user company and the worker may terminate the contract at any time (“end of assignment is end of contract” – the so-called “agency clause”). The contract also ends when the worker falls ill. Every assignment adds up to the 78 weeks. Interruptions between assignments play no role in this unless the interruption lasts more than 26 weeks in which case the 78-week counter goes back to zero. When not on assignment the worker receives no pay.

¹¹ Members of the two apex organisations ABU and NBBU who employ labour migrants and provide these with housing must respect the housing norms agreed upon in the CLA. An independent monitoring agency makes sure that they do.

Box 3 (continued)

After having completed 78 weeks of work for the same agency, the worker enters phase B. Up to eight contracts may be concluded in phase B within a period of at most two years. The agency continues to pay the worker in case of illness or a break between assignments. This is the equivalent of 91% of the last received wage but in any case no less than the minimum wage. After completion of phase B (i.e. after three and a half years) the worker enters phase C and gets a contract without time limit during which he or she also continues to be paid by the agency in case of illness or breaks between assignments.

In terms of pay, during the first 26 weeks the worker receives either the wage stipulated in the ABU scales or that stipulated by the user company. From week 27 at the same company, the user company pay scales apply automatically. In 2009, 7% of all agency workers were in either phase B or phase C (Keizer, 2011).

The latest (2012) CLA with a duration of 5 years stipulates that, as of January 2015 equal pay will be introduced from the very start of each contract. However, the current qualifying period of 26 weeks will still apply to certain “target groups”.

The current (2009 to end 2013) NBBU CLA also stipulates a phase system (1 to 4) with growing employment security. As in the ABU CLA, workers in the last phase (phase 4 – after 3 1/2 years) must be offered a contract without time limit. Phase 1 lasts 26 weeks; phase 2 lasts 104 weeks, and phase 3 lasts 52 weeks. The main difference between the ABU and the NBBU phase system is that workers for NBBU-affiliated agencies work under the agency clause during both phase 1 and phase 2. This is longer than in the ABU CLA. On the other hand, workers covered by the NBBU CLA are paid according the user company scales from day one.

Rogue agencies

The PrEA sector has long suffered from unscrupulous agencies in e.g. horticulture, construction, cleaning and meat processing. Open EU borders and the free movement of workers greatly increased the number of labour migrants and concomitantly the risk of abuse and fraud. The authorities take these risks seriously.

In fact, the challenge of the rogue or unscrupulous agencies is being met by a joint (public-private) approach whereby industry self-regulation (through SNA certification – discussed in Box 4 – and SNCU – discussed in Box 5), and law enforcement authorities aim to reinforce each other’s effectiveness. As early as 1976 ABU established rules of conduct for its members (ABU, 2011). In 1998, ABU established the Financial Testing Foundation (SFT), which ensures that all ABU members pay their social insurance premiums (ibid).

Since 1 July 2012, all employers who deploy staff against payment and under supervision and management of a recipient party¹² must register in the Trade register of the Chamber of

¹² The registration obligation applies to all companies that supply staff, i.e. companies whose main activity is supplying staff, such as employment agencies and companies for which supplying staff is an additional activity or where this flows from other commercial activities. It applies to all suppliers irrespective of their legal form; even if they supply workers and do not have an office in the Netherlands, such as foreign companies or “vans that pick up workers” (*06- busjes*).

Commerce¹³. Fines for lack of or incomplete registration are stiff: from Euro 12,000 per employee for the first offence to Euro 36,000 per employee for a third offence. User companies of non-registered PrEAs also risk a fine.

In October 2012, 12,000 PrEAs were registered in the Trade Register. Of these, 5000 are member of the PrEA industry's pension fund STIPP; 2,600 have been certified by the SNA (see Box 4). Of the latter 1,400 are members of either ABU or NBBU. "It is among the remaining 7000 agencies that we find cases of fraud, payment of below CLA wages, non-payment of pension premiums, unpaid overtime, illegal employment and even human trafficking" according to Mr Peter Loef, director SNCU (the "CLA police") in: *De Gelderlander*, 28 October 2011.

The Ministry for Employment and Social Affairs has set up a special inspection team to combat unscrupulous temporary work agencies. In order to detect these PrEAs that pay less than the minimum wage, do not pay tax and social security contributions, and exploit their workers the inspection team collaborates with the tax authorities, municipalities, law and order enforcement, and SNCU. It also collaborates with the authorities in Central and Eastern Europe where many of the exploited labour migrants come from. In addition, it has set up a hotline where victims of rogue agencies can complain – even anonymously (source: www.rijksoverheid.nl)

Furthermore, the authorities recommend user companies to deal only with agencies that have been SNA certified (see Box 4). As an example, the CLA for the construction workers now states that members may only hire workers from NEN-certified agencies because only these guarantee that they pay their taxes and social insurance contributions.

Box 4: The Labour Standards Foundation SNA (*Stichting Normering Arbeid*)

In addition to the registration obligation that was re-introduced in 2012 to combat the fraudulent deception when supplying staff, temporary work agencies are encouraged to be certified with the SNA quality mark of the Dutch Labour Standards Foundation. ABU-affiliated companies *must* be SNA-certified. Upon joining, NBBU-affiliated agencies are given six months to become SNA-certified.

The SNA mark indicates that the temporary agency pays tax and at least the minimum wage. The quality mark is based on the NEN 4400 standard and was instituted by the temporary agency industry and the social partners to protect user companies and subcontractors against costly claims. Temporary agency workers can claim their back wages and holiday allowances from the user company in case their PrEA employer is incapable or unwilling to pay these. However, user companies who only make use of agencies certified with the SNA quality mark avoid being held liable for the payment of outstanding wage taxes and VAT of the company that supplied the staff. The number of certified companies stood at 3,050 on 1 December 2012. A further 1,092 PrEAs had asked to be certified (source: www.normeringarbeid.nl).

¹³ The earlier license obligation for PrEAs was lifted in the late 1990s because it was seen as costly and inefficient (de Koning et al, 1999)

By raising the profile of their members, the *bona fide* agencies contribute to combating the operations of the rogue or unscrupulous agencies. They do this by signing CLAs with the main trade unions and by enhancing the effectiveness of the SNCU, the “CLA police” (see Box 5 below).

Box 5: The Social Fund for the Temporary Agency Work Sector (SFU)

The Social Fund for the Temporary Agency Work Sector (SFU – *Stichting Fonds Uitzendbranche*) was created in 2007. It is the Apex organisation for three funds (STOOF; STAF; and SNCU). It is organised by the signatories to the two (ABU and NBBU) Collective Labour Agreements (CLAs). Employer members contribute 0.2% of their wage bill to the financing of SFU.

- The Training and Development Fund for the Temporary Work Sector (STOOF – *Stichting Opleiding en Ontwikkeling Flexbranche*) promotes training so as to improve the quality of organisations and employees¹. A main activity consists of assisting companies with applications for EU subsidized training programmes.
- The Working Conditions in the Temporary Work Sector Fund (STAF – *Stichting Arbo Flexbranche*) aims to improve working conditions, reduce sickness-related absenteeism and increase re-integration of workers in the TWA industry. It aims to highlight best practices, and provide suggestions on how to better manage employee’s health¹. The emphasis is on prevention.
- The Compliance with the Collective Labour Agreement for the Temporary Agency workers sector foundation (SNCU – *Stichting Naleving CAO voor Uitzendkrachten*), “the CLA police”, was created in 2004. It monitors compliance with the CLA and provides employers and employees with information on the rules of the CLA in order to improve compliance¹. The SNCU operates a hotline for those who want to report suspected misconduct. It can impose fines and demand reparatory payments from companies that breach the CLA. In 2013, SNCU had a budget of Euro 2.7m, partly financed by SFU and partly by fines.

The goal of these initiatives is to enable the authorities to focus their scarce resources on ‘high-risk groups’ defined as non-ABU and non-NBB members, and non-SNA certified agencies.

3. Spain

3.1 Introduction

We have comparatively few hard data on private employment agencies in Spain. ASEMPELO, the apex organisation, only started operations this year (2013). Despite the liberalisation of the temporary agency industry the penetration rate did not show any strong increase between 1996 and 2011 (see graph 1). In the last 15 years this rate has hovered around the 0.5% mark although it did go up significantly (but temporarily) in the late 1990s. Given the abundance of other types of fixed-term work and, since 2008, the drastic general decline in employment opportunities related to the crisis this is perhaps not unexpected. Spanish temporary agencies place their people in general for relatively short periods.

ASEMPELO groups together the activities of AGETT, market leader and the association of the major companies, its (former) smaller rival AETT, together with the Manpower agency, which until now had not been a member of any association. The association has 41 members and covers roughly 90% of the market. The third federation FEDETT, the Spanish Federation of Temporary Work Agencies, did not join ASEMPELO.

Trade unions have traditionally seen PrEAs as a threat, but they tend to accept them as a fact of life, and concentrate their efforts on pressing for better regulations and/or coverage of collective labour agreements (Eurofound).

3.2 Economy and labour market

Spain experienced a long period of economic growth before the 2008 financial crisis broke out. The main engine of the boom was the construction industry, the growth of which was facilitated by the easy availability of low-interest loans. The crisis put an end to this boom and in 2008, Spain sank into recession. Currently (early 2013), the unemployment rate stands at over 26% or 5 million people registered as unemployed, over half of whom have been unemployed for over a year. Over 50% of young people are without a job.

From the early 1990s, the Spanish economy experienced sustained growth. Employment grew faster than the European average. By 2007, the unemployment rate had come down to 8% from 25% in the early 1990s. This was all the more remarkable since it occurred in a period during which the labour force increased spectacularly due to the inflow of millions of immigrants looking for work. By 2010, immigrants made up around 12% of Spain's population. The share of immigrants in the labour force increased from 1% to 14.8% between 2000 and 2008 (Éltető, A., 2011; Wölfl et al 2011).

Unfortunately, the decline in employment post-2007 was equally spectacular. The slowdown in construction and (subsequently) manufacturing were the main causes of this decline. Young people, immigrants, the low-skilled and poorly educated have been the main victims of the lack of jobs.

As elsewhere, at first the government attempted to stimulate the economy and alleviate the negative effects on jobs in the hope that the downturn would be short. Tax reductions, special funds to create jobs, lower labour costs, measures to stimulate SMEs, and increased resources to public employment offices were among the measures that were intended to accelerate economic growth and keep unemployment from rising.

However, as elsewhere, the widening budget deficit forced the government to change track. From 2010, the need to reduce spending and increase revenue became steadily more important. In a succession of rounds, VAT (Value Added Tax) rates were increased, spending on infrastructure and education and training reduced. Public sector wages were cut, the retirement age was increased and unemployment benefits reduced.

A series of initiatives have been taken to reform the labour market. Traditionally, in Spain it was relatively costly to make permanent employees redundant, and relatively easy to terminate workers on temporary contracts. As a result, temporary employees make up a proportion of the labour force that is twice as high as the OECD average (until 2006 around one-third of all workers had fixed-term contracts). These temporary employees are the first to lose their job when economic and employment growth slow down or come to a halt. Out of the 1.6 million employees who lost their job between mid-2007 and late 2011, 1.4 million had temporary contracts (Wölfl et al 2011; Bentolila et al, 2013).

The high degree of *de facto* employment protection for permanent employees is the result of a combination of moderate legal employment protection and slow judicial procedures in the case of conflicts. Workers on permanent contracts who were dismissed for “justified” reasons were entitled to a severance pay of 20 days’ wages per year of seniority. However, dismissed workers on permanent contracts have the option to appeal to a labour court and, if the dismissal is judged not ‘justified’, the employer has to pay 45 days’ wages. In 3 out of 4 cases, the dismissals had been judged ‘unjustified’. In addition, the legal procedures take time and this added to the employers’ costs, as they needed to continue to pay the worker as long as the procedure lasted. As a result, few dismissals (2% according to Bentolila et al., 2012) reached the courts with the employer preferring to declare upfront that the dismissal was not ‘justified’, pay 45 days’ wages per year of seniority, and so avoid litigation (Wölfl et al 2011; Bentolila et al 2012).

A permanent contract with reduced severance pay also exists, the so-called PEP contract (*Programa Empleo Proximidad*), which entails severance pay of 33 days’ wages per year of seniority for unjustified dismissals but its use had been limited because only certain groups of workers used to qualify for this type of contract.

Bentolila et al. (2012) stress the negative effects of employment protection legislation (EPL) on labour mobility. Geographical mobility is low in Spain. The fraction of people who have never moved after leaving the parental home is 23% (it is only 8% in France). Moreover, while 30 % of the French population have moved across regions, only 11% of Spaniards has. The low interregional mobility has made the impact of the recession more acute in Spain. Temporary employment reduces the likelihood of interregional migration because a temporary job in a different region does not provide much job security, whereas migrating means giving up (to a large extent) the support of family networks, which are a key insurance mechanism in Southern Europe (Bentolila et al 2012, p.13).

Clauwaert et al, 2012 see Spain as a typical country where in response to the crisis the labour codes and other labour regulations on collective and individual redundancies have been amended with the aim of simplifying hiring and dismissal rules. Efforts have also been made to decentralize collective bargaining, shifting from national/sectoral level to company level. This

is meant to give businesses more flexibility and help them adjust to labour market conditions by allowing lower-level bargaining outcomes to deviate unfavourably from higher collective agreements (Clauwaert 2012 p.13). Indeed, in the most recent period, Spain has taken several initiatives to reform the labour market, but it is hard to assess their impact given the poor state of the economy and the fact that these measures were taken only recently.

For instance, the September 2010 reform (Law 10/2010) attempted to bridge the gap between the employment protection of those on permanent and temporary jobs. It expanded the conditions under which a dismissal for objective reasons can be justified. It broadened the conditions under which a dismissal can be justified for ‘economic reasons’, shortened the notice period and extended the range of beneficiaries eligible for a PEP contract. For those on temporary contracts, on the other hand, the compensation for dismissal was to rise gradually from 8 to 12 days (by January 2015). Employers would benefit from tax benefits when they hired an unemployed person younger than 31 or older than 45 years of age. In December 2010, it became easier to set up a new company and an increase in the number of staff in public employment offices was announced.

The Popular Party (PP) government that came to power in late 2011 introduced in February 2012 further reforms to increase labour market flexibility. Among these measures is a reduction in compensation for wrongful dismissal of people on open-ended contracts. To stimulate recruitment of young and older people, a new open-ended contract for SMEs was created with a trial period of one year and reduced social security contributions. The recruitment of more staff at the public employment offices was put on hold, however. In November 2012 (by Royal Decree 28/2012) the government announced that it would not increase pensions in line with inflation.

In early 2013, Spain is still in deep recession. The country continues its efforts to clean up, recapitalise and restructure its financial system. Interest rates are at a record low but banks are reluctant to lend, and this holds back growth particularly among small and medium-sized enterprises. Pressure from “Brussels” to bring the budget deficit down from the current 6% has led to revenue-raising and expenditure-cutting, both not exactly growth-stimulating activities. Youth unemployment remains high. A new government plan provides young people with incentives to become self-employed. Exports and earnings from tourism are bright spots. In early 2013 unemployment may well have peaked at 5 million people, if only because the labour force is declining. Many Latin American immigrants are returning to their country of origin and many young Spaniards are now looking for work in Northern Europe, Latin America and elsewhere.

3.3 Regulatory framework

Spain has a low union density but most salaries and working conditions are set by collective agreement through the general extension of CLAs at the relevant sector and geographic level. About 90% of workers are covered by industry agreements at varying geographic levels and 10% are covered by agreements at company level. Collective bargaining is characterised by a complex system of overlapping bargaining at industrial, provincial and firm level. Lower levels may deviate from the higher-level bargaining as long as employment conditions, including wages, are set at a more favourable level to the worker (Wölfli et al., 2011, pp.17). This leaves little room for small and medium-sized enterprises to adapt their wages to their levels of productivity.

Operating a temporary work agency became legal in Spain in 1994 (Law 14/1994), when the public monopoly on labour intermediation was abolished as part of a number of broader labour market reforms. Earlier, temporary work agencies were not allowed to operate but this prohibition was not strictly enforced by the courts. By the late 1980s, a significant number of PrEAs were operating in Spain and multinational PrEAs had begun establishing themselves in the country. The decision to legalize PrEAs was preceded by a long public debate on the desirability of doing so (Rodríguez-Piñero Royo, 2004).

The legal framework for PrEAs was rather thin, however. Koene et al. 2011 argue that lawmakers had underestimated the complexity of this form of employment. The 1994 law was not a full and extensive legal framework for this new business model (Koene et al., 2011, p. 520). Temporary workers had very short contracts (most lasted less than five days), were concentrated on low-skill work, and received wages well below those of regular employees. Income and employment security were very low (Rodríguez-Piñero Royo, 2004).

Law 29/1999 provided a more detailed framework. Importantly, it stipulated that temporary agency workers must be paid the equivalent of what directly recruited employees earn doing the same work. It also stipulated that PrEAs must set aside at least 1% for training and an additional 0.25% for training on risk prevention. Workers on strike cannot be replaced by agency workers.

Law 35/2010 introduced the rules agreed in the EU directive into Spanish legislation. Notably, Law 35/2010 and Royal Decree (RD) 10/2010 stipulate that temporary work agencies can now also operate in the public sector and in ‘risk sectors’. The scope for action of the temporary work agencies (to include placement services) is broadened and the modalities for collaboration between PrEAs and the public employment offices are defined.

In March 2013, the Government announced a new youth employment strategy. One of the many measures announced enables PrEAs to employ young workers on a training and employment contract (Eurofound/Euronline).

CLAs often contain clauses to limit the percentage of agency workers in the workplace. This varies from 5 to 12% according to Eurofound (2008). One of the provisions of the fifth CLA signed in 2008 contains a commitment by the trade unions not to seek clauses in collective agreements elsewhere that might hinder the contracting of TWAs, and to work to eliminate such prohibitive clauses in existing sectoral agreements (Eurofound).

3.4 Private employment agencies

The weak legal framework of the 1994 law did little to lift the social acceptance of the industry. Nevertheless, it did cause a large number of new players to enter the market. The number of PrEAs increased from 86 in 1994 to 316 in 1995 (Andreo-Tudela, 2011). Koene et al. (2011) describe the situation in the second half of the 1990s.

“Government regulation legalizing agency work was ineffective; a fragmented market ensued with numerous small agencies engaging in dubious employment practices and price competition that enhanced the negative image of agency work. Furthermore, as client organizations increasingly used agency work to replace regular workers, permanent staff, fearful of losing their jobs to temporary workers, resisted the use of these agencies. Societal responses ranged from union protests to targeted ETA bombings of transnational agency branches” (Koene et al., 2011, p.516).

However, the equal pay obligation introduced in the 1999 Law tempered the growth of PrEAs and even led to a decrease in numbers (Koene et al., 2011 p. 517). In fact, already before the 1999 law came into force, in their 1997 CLA, industry and trade unions had introduced a step-by-step process to reach a system of user-enterprise pay. Salary levels for temporary workers were matched with those of permanent staff, bringing them up from 80% in 1998 to 100% in 1999 (Koene et al., 2011; Andreo-Tuleda, 2011).

In a sense, the 1999 changes heralded the beginning of a new era. It began a shift towards a more constructive engagement with a society widely suspicious of temporary agency work. The trade unions started to cautiously express their support for the PrEA industry: “UGT and CCOO now repeatedly indicated that they believed TAW to be the best form of channelling temporary contracting in Spain” (Koene et al., 2011, p. 522).

Nonetheless, many continue to associate labour precariousness with the work of the PrEAs. These are frequently blamed for work-related accidents and for Spain’s high temporality rates. For PrEAs an additional problem is the complex regulatory framework. “...governmental regulations and conditions regarding CLAs differ by industry and, on top of that, every region can have its own rules and conditions. For TWAs, this complicates compliance with the right CLA and the required payment of workers” (Koene et al., 2011, p. 523).

The use of temporary agency workers is strongly affected by regional factors. Overall, services made up 60% of the total in 2007 (up from 52.6% in 1998). Industry accounted for 30.3% (down from 34.0% in 1998) and agriculture for only 7.6 % of the total in 2007. However, for example in such an essentially agriculture-based region as Murcia, with an important presence of foreign workers, agriculture accounted for two-thirds of PrEAs’ turnover (Andreo-Tuleda, 2011, p.324).

4. Sweden

4.1 Introduction

Sweden has a highly organized and strictly regulated labour market. As is the case in other sectors of the economy, the PrEA industry is largely regulated by Collective Labour Agreement (CLA). The industry has shown a steady expansion since it was legalized in 1993. It is standard practice for Swedish workers to have open-ended contracts and PrEA workers are no exception. PrEA workers tend to be comparatively well educated and work on longer-term assignments.

4.2 Economy and labour market

Compared to the other two countries, the Swedish economy is in fairly good shape even though this heavily export-dependent economy has been affected by slowing demand abroad for its goods and services. According to the latest estimates, Sweden's GDP is expected to grow by 1.7% in 2013 and 2.2% in 2014. The unemployment rate is expected to go down slightly from 8.0% to 7.8% (Den Danske Bank, March 2013).

4.3 Institutional framework

The Swedish labour market is characterised by a high degree of organisation among both workers and employers. Collective Labour Agreements (CLAs) cover 90% of the Swedish labour market. This is remarkable since the government does not have the power to declare CLAs generally binding. The high degree of organization reinforces the governments' reluctance to legislate. Many regulations governing the labour market result from agreements between employers' and workers' organisations. Labour laws leave open the possibility for these organisations to set rules through CLAs. The centrally agreed CLAs in turn leave space for local union "clubs" to reach agreements in certain matters with local employers.

Another typical feature of the Swedish labour market is LAS (Lag 1982:80 om anställningsskydd – Employment Protection Act 1982:80). Rules on the order of priority (*Turordningsreglerna*) aim to protect older workers from being cast out of the labour market and, more generally, to protect the whole labour force against arbitrariness when it comes to who should be made redundant in case there is not enough work. The employer is not free to decide, but must take into account the rules on the order of priority which are based on the principle of "last in, first out" as well as the rules on priority rights when rehiring (*företrädesrätt till återanställning*). Employers with less than ten employees are exempted from these rules (Berg, 2008). LAS also applies to temporary agency workers who have a permanent contract.

According to the 1982 Swedish Employment Protection Act, there are two types of employment contract: open-ended and limited duration. All contracts are in principle open-

ended but the Act gives employers the possibility of using temporary contracts, e.g. substitute, seasonal work, and general temporary contracts, of up to 2 years. The collective agreement for blue-collar agency workers is stricter than the legislation in this respect with a time-limit of 6 months, which may be extended to 12 months if locally agreed. According to the collective agreement for white-collar agency workers, it is possible to use different kinds of temporary contracts, for example, probationary contracts for up to 6 months (Håkansson et al 2012, p.155).

Law 1993:440 on Private Employment Agencies and Temporary Labour (*Privat Arbetsförmedling och uthyrning av Arbetskraft*) has only a few rules. It stipulates that the agency may not demand or receive any fee from the employee (para 6). An employee may not be prevented from taking a job at the client company (para 4). Someone who ceased being employed at and by a client firm must wait six months before he or she can go to work there again as an employee of a temp agency (the “*karensregel*”) (Berg, 2008, p.107).

For the temporary work agency industry itself there are no legal regulations on length of assignment, sectoral bans, permitted reasons of use, number of agency workers, workers per company etc. (Eurofound, 2008). However, user companies are bound by the Act on Employee Consultation and participation in Working Life (*Medbestämmandelagen* MBL; Co-determination Act of 1976), which explicitly obliges an employer to inform the trade union holding a collective agreement at the work place about such work before using external (i.e. agency) workers. In some cases, trade unions have the right to veto the use of external workers (Håkansson et al., 2007, p.129-130). According to Eurofound, some CLAs indeed stipulate that a company may not take in agency workers covering more than 20% of the total employment force (Eurofound). According to SSA, it is relatively rare for agency workers to make up more than 10% of the total workforce at the user company. This percentage almost never surpasses 20%.

Trade unions have reluctantly signed Collective Labour Agreements with the SSA (*Bemanningsföretagen*). SSA has collective labour agreement with blue-collar workers trade union federation *LO*, white-collar workers union federation *Unionen & Akademiförbunden*, as well as with *Vårdförbundet* and *Sveriges Läkarförbund*, the health-care workers and medical doctors unions, respectively. The first two, because of the large number people covered, are the main ones.

4.4 Private employment agencies

History

In 1935, for-profit employment services were forbidden in Sweden and the public employment service was given a monopoly. The relevant law entered into force in 1936. Sweden ratified ILO Convention No. 34 in 1937.

In 1993, private employment agencies became legal. Temporary work agencies had existed before 1993 but they operated in a grey zone. A telling illustration is that a collective agreement for temporary salaried employees in the service and administrative sectors was signed between the Swedish Commerce Employers’ Association (HAO – now: SSA) and the Salaried Employees Union (HTF – now: *Unionen*) in 1988 i.e. at a time when the hiring-out of manpower was still not permitted under the law (Eklund, 2009, p. 150)

It is tempting to interpret the legalisation of the PrEAs in 1993 as a response to the economic and financial crisis that hit Sweden in the early 1990s, or relate it to the change of government when the country had a non-left leaning government for the first time in many years. However, the fact is that this legalisation was the result of a long process (see e.g. Box 6).

Box 6: Ulla Murman's long battle¹

Sweden had had bureaus that provided (shorthand) typists and other secretarial services since 1953. Companies and public organizations passed their excess work to these agencies, which provided a much-appreciated service that was entirely legal.

On occasion, user organizations would ask for one of the typists or secretaries to come over and provide their services *in situ*. That, however, was forbidden under the law. The legendary Ulla Murman, who started her company (*Stockholms Stenografservice*) that is currently owned by market leader Manpower¹, considered this totally unfair. This was the beginning of a 40-year battle with the authorities and the trade unions to have her activities recognized as legal. In the process, she was taken to court no less than eight times (and convicted six times). These court cases did help keep the public (and parliamentary) debate alive and ripen the time for a change of the law.

As an anecdote, the day after her last conviction in 1989 the Ministry of Justice phoned Mrs. Murman to say that they needed urgent secretarial help. She replied that she had just been convicted for precisely that. But the Ministry insisted. There was much work and it needed to be done without delay. To which she replied: "OK, we'll send someone over".

In 1992, Sweden denounced the ILO Fee-Charging Employment Agencies Convention (Revised), 1949 (No. 96), and on 1 July 1993 the public monopoly on employment services was abolished.

Today

Most (around two-thirds of the total) temporary agency workers are white-collar workers. PrEA workers have a comparatively high level of education – 95% has at least finished secondary school. The agency industry employs more women than men. In the last quarter of 2012, turnover in the temporary agency branch was highest in the process industries (23%), followed by Office and administrative (17% of the total), Logistics and warehousing (16%), Finance and economy (11%) and IT (9%). The fastest-growing sector (50% more than 2011) was Health care (7% of the total in late 2012)¹⁴. Assignments tend to be comparatively long. In 2007, 75% of all assignments were longer than three months at the same company (Jonsson, 2013). In fact, it is quite common for user companies to hire in the same people for longer assignments that can last several years with the PrEA supplying a stable group of employees who can leave the company at short notice (Kantelius, 2010, p.21).

A survey by the engineering companies' branch organisation *Teknikföretagen* showed that in 2011 5% of their staff members, or 14,800 people, were from agencies. In 2010, this was 3.6% or 10,300 people. The expectation is that that number will go up (www.av.se)

¹⁴ *Bemanningsföretagen Årsrapport 2012*

In late 2011, the industry association Swedish Staffing Agencies (*SSA-Bemanningsföretagen*) had 460 members representing 64,000 employees. The industry is dominated by some major players. In 2011, three companies made up over half the total; the ten largest companies making up over 85%. 139,000 people worked at least once for a temporary agency in 2011. The penetration rate was 0.1% in 1994 and peaked at 1.4% in 2011¹⁵.

Employment stability and income guarantee

People who start to work for a temporary work agency, just like those who start any other job in Sweden, receive, in principle, an open-ended contract. This provides them with a considerable degree of employment security. This entails that, when not on assignment, the agency must continue to pay these workers and it is thus in the agency's interest to quickly find them another assignment when their current one comes to an end.

The law and the CLAs, however, do offer the possibility of a fixed-term contract in cases of project-related work. Such a fixed-term contract must be in writing and may not exceed six months – although it may be up to 12 months if approved by the local trade union (Eklund, 2009, p.153). According to Berg (2008, p.213) around 20% of all agency workers have a fixed-term contract which is higher than the average for the economy as a whole (Berg, 2008, p.314). It is also higher among young people than among agency workers as a whole.

The financial downside risk for agencies is further reduced by the fact that it is quite common for agencies to employ staff on a probationary contract for six months. As labour turnover is high in the temporary agency business, there are a large number of employees on probationary contracts. "... both these circumstances – the practice of probationary work and the high turnover in the industry – imply that there is a high proportion of limited duration contracts within the business" (Håkansson et al. 2007 p.130-31). According to (Berg 2008 pp. 310-311) the average duration of employment in the PrEA industry is one year.

In addition to the employment guarantee for workers not on fixed-term and not on probationary contracts, CLAs offer an income guarantee. This guarantee has two dimensions: (1) how should the wage be calculated when the agency worker is on assignment, and (2) what should be his or her income when not on assignment (and still employed by the agency)? The white- and blue-collar CLAs have different rules in this regard.

The 2007-2010 CLA for blue-collar temporary agency workers is built on the principle that the agency worker should have the same wage as the permanent workers at the user company. When they are not on assignment, these agency workers are entitled to a guarantee wage based on 90% of their average income during the last three months¹⁶ (Eurofound; Eklund, 2009).

¹⁵ *Bemanningsföretagen*

¹⁶ "Provisions of the agreement regarding the type of employment are more strictly formulated than the equivalent provisions in the Employment Protection Act. The main rule is that the agency worker shall be employed until further notice (indefinite term). The most important aspects of the employment relationship relating to sick and parental pay, holiday pay, travel expenses, allowances, temporary time-off and vacation pay are governed exclusively by the terms and conditions of employment laid down in any given collective agreement applying to staff agencies for blue collar workers, irrespective of whether the worker in question is on assignment or not. Staff agencies are also under the obligation to honour the labour market insurance schemes, such as pension schemes, redundancy schemes, additional sickness and workers' compensation. A separate working time agreement applies" (Eklund,2009, p.155)

The white-collar workers' collective agreement does not stipulate that agency employees should have the same salary as the employees at the user company. According to the white-collar CLA, salaries are based on individual qualifications and competences. This means that two white-collar temporary agency workers, doing the same work at a user firm, can be paid differently. The salary of the agency worker can thus be either above or below the average salary for the employees of the user organization (Håkansson et al 2012, p.156).

When not on assignment, a white-collar agency worker also has a salary guarantee. During the first 18 months of continuous employment, the employee is guaranteed a monthly pay based on 133 hours per month (just about 75% of full-time pay). After 18 months of continuous employment, the monthly pay is based on 150 hours per month (just about 85% of a full time pay). Berg (2008, p. 312) calls this guarantee a kind of 'unemployment insurance within the contract of employment'. If work is performed for more than 133 or 150 hours per month respectively, a performance related salary is paid (Eklund, 2009, p.151-152).

Strike breaking

The blue-collar CLA states that workers may not perform work at a client company that is the subject of union offensive actions. The white-collar and academic CLA has no such regulations (Eurofound). However, according to Eklund (2009, p.155) the ethical rules for staff agencies issued by the Swedish Association of Staffing Agencies stipulate that if the user enterprise is faced with industrial action, staff agencies undertake not to send co-workers as substitutes for individuals participating in the labour market conflict.

Responsibility for safety and health of the temporary worker

The user company and the temporary work agency share the responsibility for the temporary agency worker's safety and health. The user company is responsible for systematically, on a day-to-day basis ensuring safety and health at the workplace including for temporary agency workers. The temporary work agency must plan for this properly and follow this up. This applies to the actual place of work, tasks and working time. Agencies must be attentive to their workers' physical and mental health when these are placed at different user companies. The agency is responsible for its workers and must take long-term measures concerning their working conditions, including training and reinsertion after illness or accident.

Authorization

There are unscrupulous agencies operating in Sweden but it is generally believed that they are few. Business believes that they will die a natural death because of the combination of rules, authorizations and collective agreements that exist, but above all because user companies will not want to put their reputation at risk by using unscrupulous agencies. In a joint effort, SSA and the trade unions should take responsibility for the integrity of the industry (Cederholm, 2010, p.15).

Raising the profile of its members is thus a key goal of the employer and lobby organization SSA. In light of this, and to provide clients and workers with a greater sense of security, in

November 2007 SSA (*Bemanningsföretagen*) decided that all its members had to become certified which, *inter alia*, meant that all members should be bound by a CLA. All existing members had to be authorized before February 2009. Box 7 provides details about the conditions for authorization.

Box 7: The Twelve Conditions for Authorisation by the Federation of Swedish Staffing Agencies (SSA-Förbundet *Bemanningsföretagen*)

1. A minimum of twelve months of staffing-related operations
2. Compliance with the Federation's bylaws:
 - Compliance with the bylaws of the Confederation of Swedish Enterprises (CSE)
 - Observance of Swedish Law
 - Provision of statistics and other information as requested by the Federation, Almega or CSE
3. Compliance with the Federation's Code of Conduct
4. Adherence to the Collective Agreement of the sector in which the company is operating
5. Application of delivery terms at least on par with the Federation's *General Provisions on Staffing Services*
6. Coverage by the Federation's liability insurance or equivalent
7. Adoption of an equality plan in accordance with Act SFS 1991:433 on Equality between men and women
8. Assurance that all subcontractors are registered for VAT, pay taxes and duties, are covered by subcontractor insurance and are bound by collective agreement(s) in respect of employed staff
9. Completion of the Federation's special authorisation programme by at least one person in a managerial position within the company
10. Exposure of the Federation's authorisation logo in all job advertisements and marketing activities
11. Submission of the most recent annual report
12. Completion of the authorisation board's annual assessment (Source: Almega)

Compliance with the authorization conditions is overseen by a committee made up of business and trade union representatives with an independent chairman, Erik Åsbrink, a former social-democratic finance minister.

Conclusion

The European economy is in poor shape. Unemployment is high and rising. The future is uncertain as it is taking much more time than anticipated to overcome the 2008 financial crisis and its aftermath.

In this uncertain climate, the calls for labour market reform have become louder and more widespread. Private employment agencies (PrEAs) are being viewed more positively – even though in many places opposition to their activities remains. The main players in the industry have made considerable efforts to show their “social face”. They want to be seen as responsible actors and keep their distance from unscrupulous competitors. Dutch agencies have been playing a leading role in this.

The private employment agency (PrEA) industry has developed quite differently in the three countries (Netherlands, Spain, Sweden) considered here. As a cyclical industry, the state of the economy affects its development. However, attitudes and perceptions, structural changes in the labour market and, especially, changes in the institutional framework were found to be at least as important.

In the Netherlands, the industry has long been an accepted part of the labour market with already in the mid-1990s a penetration rate (PrEA workers as a percentage of the labour force) of over 2%. Fifteen years later, this rate was only slightly higher. Dutch PrEAs face strong competition from rival, (for employers) less expensive forms of labour market flexibility with frequently lower levels of social protection. Through legislation, collective agreements, and self-regulation the industry has worked hard to set and maintain good employment standards and good standards of conduct. To the point that the trade unions have stated that temporary agency work is their preferred form of external flexibility.

In Spain, the PrEA picture is blurred by the poor state of the economy and the labour market. Nevertheless, in Spain too, a substitution effect appears to be at work. Spanish companies have ample access to different types of fixed-term contracts and appear to have comparatively little need for hiring private employment agency workers. The current Spanish PrEA penetration rate at 0.5% is no higher than it was 15 years ago.

Sweden has a strictly regulated labour market. Collective labour agreements (CLAs) cover a high percentage of the labour force. This is remarkable given that the Swedish government (unlike the Dutch and Spanish governments) does not have the possibility to declare CLAs generally binding. Open-ended labour contracts are the standard in Sweden – and private employment agency contracts are no exception. Sweden is the country in which the PrEA penetration rate has gone up the most in the past 15 years (admittedly from a low base).

Relaxing labour market regulations has become a common response to the current poor economic and employment situation. However, it is a moot point to what extent (and which type of) deregulation will help raise employment and productivity levels. Most of these regulations did not keep employment from growing rapidly in earlier periods. Sweden, the country with arguably the strictest regulated labour market of the three countries considered here, has seen only a modest degree of labour market deregulation. It is also the country with currently the highest economic growth rates.

References

- ABU. 2009 *Feiten en cijfers: Instroomonderzoek over uitzendkrachten* (ABU, Lijnden)
- ABU. 2011 *Inspiring Journey, Inspired sector: 50 years ABU* (ABU, Lijnden)
- ABU. n.d. *Flexpocket: Feiten en cijfers over flexibele arbeidsvormen*
- Anfreo-Tudela, Juan Carlos. 2011 “Le développement de l’intérim en Espagne” in: Belkacem, R.; Kornig, C.; Michon, F. (eds.) *Visages de l’intérim en France et dans le monde* (Paris, L’Harmattan)
- Arrowsmith, James. 2006 *Temporary agency work in an enlarged European Union* (Dublin, European Foundation for the Improvement of Living and Working Conditions)
- Bennmarker, H.; Grönqvist, E.; Öckert, B. 2009 *Betalt efter resultat utvärdering av försöksverksamhet med privata arbetsförmedlingar* (Uppsala, Institut för arbetsmarknadspolitisk utvärdering – IFAU, Rapport 2009:23)
- Bentolila, S.; Cahuc, P.; Dolado, J.J.; Le Barbanchon, Th. 2012 “Two-Tier Labour Markets in the Great Recession: France vs. Spain,” in *The Economic Journal*, Vol.122, Issue 562, pp. F155–F187, August
- Berg, Annika. 2008 *Bemanningsarbete, flexibilitet och likabehandling: en Studie av svensk rätt och kollektivavtalsreglering med komparativa inslag* (Lund, Juristförlaget i Lund)
- Bosch, N.; Roelofs, G.; van Vuuren, D.; Wilkens, M. 2012 *De huidige en toekomstige groei van het aandeel zzp’ers in de werkzame beroepsbevolking*
- Cederholm, Maria. 2010 *Vem Förmedlar Framtidens Jobb?* (Stockholm, Svensk Näringsliv)
- Clauwaert, S.; Schömann, I. 2012 *The crisis and national labour law reforms: a mapping exercise* (Brussels, European Trade Union Institute, ETUI Working paper 2012.4)
- Coe, N.M.; Johns, J.; Ward, K. 2009 “Managed flexibility: Labour regulation, corporate strategies and market dynamics in the Swedish temporary staffing industry” in: *European Urban and Regional Studies*, 2009 16(1), pp. 65-85
- Dekker, F.; Stavenuiter, M. 2012 *ZZp’ers en het social stelsel: op weg naar herziening?* (Instituut GAK, Verwey Jonker-Instituut)
- Eklund, Ronnie. 2009 “Who is afraid of the Temporary Agency Directive?” in: Eklund, R.; Hager, R. Kleineman, J. ; Wängberg, H. *Skrifter till Anders Victorins minne* (Uppsala, Iustus)
- Éltető, Andrea. 2011 “The Economic crisis and its management in Spain” in: *Eastern Journal of European Studies* Vol. 2 Issue 1, June 2011
- European Foundation for the Improvement of living and working conditions (Eurofound). 2008 *Temporary agency work and collective bargaining in the EU* (Dublin, Eurofound)
- Eurofound. *European Industrial Relations Observatory on-line* (EIROOnline)
www.eurofound.europa.eu/eiro/

-
- Fernández Martínez, H. 2012 *Análisis de la reforma del mercado laboral español* (Barcelona, Universitat Abat Oliba CEU, Facultat de Ciències Socials)
- De Graaf-Zijl, M.; Brak, J.; Folmer, E. 2010 *Uitzenden in tijd van crisis: Bemiddeling en scholing door uitzendbureaus* (Amsterdam, University of Amsterdam – Amsterdam Institute for Advanced Studies AIAS Working paper 10-95)
- Heyma, A.; de Graaf-Zijl, M. 2009 “De rol van uitzendarbeid binnen de publieke arbeidsbemiddeling” in *TPEdigitaal* 3(2), pp.142-162
- Håkansson, K.; Isidorsson, T. 2007 “Flexibility, Stability and Agency work: A comparison of the use of Agency Work in Sweden and the UK” in: Furåker, B.; Håkansson, K.; Karlsson, J.Ch. *Flexibility and Stability in Working Life*, (London, Palgrave Macmillan)
- Håkansson, K.; Isidorsson, T.; Kantelius, H. 2012 “Temporary Agency work as a means of achieving Flexicurity?” in: *Nordic journal of working life studies*, Vol. 2, No. 4, November, pp. 153-169
- International Labour Office (ILO). 2011 *Private employment agencies, promotion of decent work and improving the functioning of labour markets in private services sectors* (GDFPSS/7/2011; ILO, Geneva)
- Johnson, Anders. 2010 *Hyrt går hem: Historien om den svenska bemanningsbranchen* (Stockholm, Bemanningsföretagen/Informationsförlaget)
- Kantelius, Hannes. 2010 *Inhyrningslogik: Långtidsinhyrda arbetare och tjänstemäns utvecklingsmöjligheter och upplevda anställningsbarhet* (Göteborgs Universitet, Vetenskaplig Skriftserie Arbete och Hälsa Nr. 2010; 44 (10))
- Keizer, Arjan B. 2011 “Non-regular Employment in the Netherlands” in: Japan Institute for Labour Policy and Training (JILPT) *Non-regular Employment – Issues and challenges Common to major Developed Countries* (JILPT Report No.10; JILPT, Tokyo)
- Koene, B.A.S.; Ansari, S.M. 2011 “Institutional Change and the Multinational Change Agent: A study of the Temporary Staffing Industry in Spain” in: *Journal of Organisational Change Management* 24 (4), pp.511-531
- De Koning, J.; Denys, J.; Walwei, U. 1999 *Deregulation in placement services: A comparative study for eight EU countries* (Report prepared for the European Commission, Directorate-General for Employment, Industrial relations and Social Affairs)
- Malyar, Treni. 2010 *Directive 2008/104/EC on Temporary Agency Work: the implementation of this Directive in the Netherlands and Germany* (Tilburg, University of Tilburg, Faculty of Law)
- Mullor, Mónica. 2011 “La reforma de los servicios públicos de empleo: propuesta para fomentar la colaboración público-privada, la competencia y la libertad de elección de los desempleados” in *Cuadernos de Pensamiento Político*, enero/marzo, pp. 167-177
- Prieto Alonso, Ruth. 2012 *La temporalidad en el mercado de trabajo español* (Valladolid, Universidad de Valladolid, Facultad de Ciencias del Trabajo)
- Randstad. 2012 Annual Report
- Rodríguez-Piñero Royo, Miguel C. 2004 “Spain” in: Blanpain, R.; Graham, R. (eds.) *Temporary agency work and the information society* (Kluwer Law International)

UWV. 2013 UWV Kennisverslag 2013-1 (March at: www.uwv.nl/kennis)

Vaes, T., Vandenbrande, T. 2009 *Implementing the new temporary agency work directive* (Leuven, Katholieke Universiteit Leuven, Hoger Instituut voor de arbeid/ Higher Institute of Labour Studies – HIVA)

Voss, E.; Vitols, K.; Farvaque, N.; Broughton, A.; Behling, F.; Dota, F.; Leonardi, S.; Naedenoen, F. 2013 *The Role of Temporary Agency Work and Labour Market Transitions in Europe: Institutional frameworks, empirical evidence, good practice and the impact of social dialogue* (Final report for the Joint Eurociett/UNI Europa Project: “Temporary Agency Work and Transitions in the Labour Market” (Hamburg)

Wöfl, A.; Mora-Sanguinetti, J.S. 2011 *Reforming the labour market in Spain* (Paris, OECD Economics Department Working paper No. 845)

Annex 1: People interviewed

Mr. Kent Ackholt, *Ombudsman Arbetslivsenheten, Landsorganisationen i Sverige (LO)*

Ms. Lucy Dieduksman, NBBU, Legal Affairs

Dr. Marloes de Graaf-Zijl, Amsterdam Institute for Labour Studies (AIAS) and Netherlands Bureau for Economic Policy Analysis (CPB)

Drs. Marten E. Jukema, *CNV Dienstenbond*

Mr. Piet Meij, NBBU, Chief Social and Economic Affairs

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Ms. Laura Spangenberg, ABU, International Affairs

Mr. Jeroen Tiel, Managing Director, Randstad Sweden

Sectoral working papers ¹⁷

	<i>Year</i>	<i>Reference</i>
The role of worker representation and consultation in managing health and safety in the construction industry (David Walters)	2010	WP.270
Sectoral Coverage of the Global Economic Crisis, Trends in Employment and Working Conditions by Economic Activity, Statistical Update, Third Quarter 2009	2010	WP.271
Strengthening social dialogue in the utilities sector in Nigeria (Professor Sola Fajana)	2010	WP.272
Strengthening social dialogue in the utilities sector in Malawi (Winford H. Masanjala)	2010	WP.273
The Global Economic Crisis: Trends in Employment and Working Conditions by Economic Activity, Statistical Update, Fourth Quarter 2009 (Erick Zeballos and Stefanie Garry)	2010	WP.274
Green Jobs Creation through Sustainable Refurbishment in Developing Countries (Ramin Kievani, Joseph H.M. Tah, Esra Kurul and Henry Abanda)	2010	WP.275
Working Conditions of Contract Workers in the Oil and Gas Industries (Ian Graham)	2010	WP.276
Dispute Prevention and Resolution in Public Services Labour Relations: Good Policy and Practice (Clive Thompson)	2010	WP.277
Automotive Industry: Trends and Reflections The global Economic Crisis – Sectoral Coverage (Ian Graham)	2010	WP.278
Job Crisis Recovery: A Global Overview of Employment Trends and Working Conditions by Economic Activity Statistical Update, First Semester 2010 (Erick Zeballos and Stefanie Garry)	2010	WP.279
Labour-oriented Participation in Municipalities: How decentralized social dialogue can benefit the urban economy and its sectors (Carlien van Empel and Edmundo Werna)	2010	WP.280

¹⁷ Working Papers Nos. 1-269 are not included on this list for reasons of space, but may be requested from the Sectoral Activities Department.

Situation of Social Dialogue in the Philippines Water Supply (Marie Beth Lorenzo)	2011	WP.281
Responsible contracting: An approach aimed at improving social and labour practices in the property services sector (Andrew Bibby)	2011	WP.282
Private Employment Agencies in Morocco (Ghada Ahmed)	2011	WP.283
Restructuring and social dialogue in the chemical industry in India (National Safety Council of India-NSCI)	2011	WP.284
Restructuring and social dialogue in the chemical industry In China (Xiangquan Zeng, Xiaoman Li and Liwen Chen)	2011	WP.285
Restructuring and social dialogue in the chemical industry in Brazil (Nilton Benedito Branco Freitas and Thomaz Ferreira Jensen)	2012	WP.286
The Digital Labour Challenge: Work in the Age of New Media (Aidan White)	2012	WP.287
The Health of Workers in Selected Sectors of the Urban Economy Challenges and perspectives (Francisco Comaru and Edmundo Werna)	2012	WP.288
International Perspectives on Women and Work in Hotels, Catering and Tourism (Thomas Baum)	2013	WP.289
Private Employment Agencies in the Netherlands, Spain and Sweden (Gijsbert van Liemt)	2013	WP.290
Private employment agencies in South Africa (Debbie Budlender)	2013	WP.291
Law and practice of private employment agency work in South Africa (Paul Benjamin)	2013	WP.292
Private Employment Agencies and Labour Dispatch in China (Liu Genghua)	2014	WP.293
Las agencias de empleo privadas en Argentina, Chile y Uruguay (Sandra Goldflus Wasser)	2014	WP.294