



# European Sectoral Social Dialogue on Temporary agency work

## Work Programme 2019 – 2020

Brussels, 2<sup>nd</sup> October 2018

### 1. Introduction

The EU Sectoral Social Dialogue on temporary agency work has proven to provide valuable results in the past years, focusing on joint projects, agreeing on joint declarations and recommendations, but also contributing to EU policy debates on labour market policies and regulation.

The Work Programme 2019 – 2020 is adopted in a period of fundamental change. This applies to labour markets, which are increasingly characterised by a changing world of work (new forms of employment, impact of demographics, digitalisation and new skill requirements). At the same time, the EU policy agenda will enter a phase of re-orientation and refocus, with a new European Parliament being elected in May 2019 and a new European Commission taking office in Autumn 2019. The sectoral social partners for temporary agency work aim to contribute to the related policies and discussions at EU level.

### 2. An updated format for the sectoral social dialogue on temporary agency work

The Sectoral Social Partners for temporary agency work will take the opportunity of the 2019-2020 joint work programme to adapt their sectoral social dialogue by updating the format, working methods and interactivity of the meetings. The new working method will be built on two key principles. The overall purpose is to give more room for discussion, best-practices exchange and dialogue directly between the World Employment Confederation-Europe members and UNI-Europa affiliates to address topics of common interest. To achieve this, two concrete changes to the format are planned:

1. Including at least once a year a joint presentation of national social partners on topics covered in the Work Programme 2019/2020 and dedicate a full Sectoral Social Dialogue meeting to a specific topic (e.g. training for agency workers, access to social benefits, regulation on temporary agency work, trends impacting the world of work), inviting members/affiliates and external experts to present and have an interactive exchange of views.
2. Use the Sectoral Social Dialogue Committee meetings to invite representatives of the sectoral bipartite funds (training, social funds, pensions, health and safety, benefits for workers, supplementary contractual provision etc.) to provide a full overview of their activities and have discussion on key challenges facing them.

### 3. Labour market and employment policy

The Directive 208/2004/EC underlines in its recital 11 that temporary agency work contributes to job creation, participation and integration on the labour market. Against this background, the World Employment Confederation-Europe and UNI Europa aim to contribute in 2019-2020 to EU level discussions on employment and labour market policies, with a special focus on:

- a) **EU and national policies to foster apprenticeships and dual learning.** Discussions will focus on the role of temporary agency work in fostering formal and informal learning and in developing soft skills of workers and candidates.
- b) The design of a **new EU Employment and Growth Strategy post 2020**, the related employment targets, EU Employment Guidelines and the annual national reform programmes.
- c) **National and European policy approaches to secure the transferability and portability of rights for temporary agency workers.** The transferability and portability of rights can be ensured in the temporary agency work industry via bipartite funds established by the Sectoral Social Partners and/or based on individual accounts. Typical areas of transferable and portable rights include access to training, complementary social benefits, health care and/or complementary pension schemes (3<sup>rd</sup> pillar). The World Employment Confederation-Europe and UNI-Europa will aim to organise the exchange of best-practices in this field based on presentations of national social partners, the organisation of workshops and/or mutual learning sessions throughout 2019/2020.
- d) **In following-up the 2017/2018 joint project on online talent platforms, labour market intermediaries and the changing world of work**, the World Employment Confederation-Europe and UNI-Europa will continue to monitor policy debates at EU and national level on online talent platforms to contribute to a common point of view on this topic.
- e) **EU policies on preventing and tackling undeclared work**, showcasing that an appropriately regulated temporary agency work industry contributes to the reduction of undeclared work by turning available work into formal jobs. The World Employment Confederation-Europe and UNI-Europa will also address the cross-border dimension of undeclared work, aiming to establish contacts with the European Labour Authority to be established by 2019.
- f) The **follow-up of the European Pillar of Social Rights**, discussed and agreed at EU level in 2017 and its main dimensions, namely equal opportunities and access to the labour market, fair working conditions, social protection and inclusion.

Joint declarations and recommendations on these elements of employment and labour market policies will be developed by the World Employment Confederation-Europe and UNI-Europa when relevant and appropriate.

#### 4. Regulation on temporary agency work

Temporary agency work is regulated by national law, several EU Directives and in many countries through collective labour agreements. Regulation covers the conditions for temporary work agencies to operate and provide services, which need to be, in line with Article 4 of the Directive on temporary agency work proportionate, non-discriminatory and objectively justified. Equally important aspects of regulation on temporary agency work are the working conditions for temporary agency workers, which are based on the principles of non-discrimination, equal treatment and equal pay, while certain derogations are allowed based on Article 5 of the Directive on temporary agency work. Furthermore, EU Directives covers the posting of (temporary agency) workers in the context of the provision of services and health and safety at work. The 2017 EU Commission proposal for a Directive on transparent and predictable working conditions has a cross-sectoral focus, while also addressing elements of labour market regulation that are highly relevant to the temporary agency work sector.

The Sectoral Social Partners will in this context also follow-up on the Brexit negotiations and the implications these have on working conditions and the cross-border mobility of workers.

The World Employment Confederation-Europe and UNI-Europa aim to contribute to debates on regulation addressing temporary agency work with a special focus on:

- a) National labour market reform discussions and changes in regulation, including a focus on their interrelation with the EU Directive on temporary agency work and its two main dimensions, namely the fact that restrictions on temporary agency work need to be proportionate, non-discriminatory and objective, while at the same time the principles of equal treatment and equal pay (including the option of derogations) must be complied with. The EU Sectoral Social Partners for temporary agency work will monitor the application of the principles of equal treatment and equal pay as articulated in, and between, EU Member States. This could lead to further studies on the issue at hand.
- b) The abuse of the A1 procedure, whereby premiums must be paid in the home country. In particular, discussions will focus on the evidence of fraudulent use of the A1 procedure via PO Box companies. The sectoral social partners will highlight and promote existing good practices aimed at combatting this abuse. For the fair playing field it is important that the wage paid is also the basis for taxes in the country in which the labour contract is signed.
- c) The benefits and challenges of a diversity of labour contracts and forms of work in the temporary agency work sector, including temporary, part-time, full-time, apprenticeship but also open-ended contracts, zero-hour contracts, payrolling and platform work. World Employment Confederation-Europe members and UNI Europa affiliates will be invited to present latest developments in this area and to share examples of social innovation linked to labour contracts. In this context, also the need for a level-playing field between different forms of work will be discussed.
- d) Collective labour agreements and other initiatives of sectoral social partners to settle employment and working conditions of temporary agency workers. World Employment Confederation-Europe members and UNI Europa affiliates will be invited to present recent achievements and outcomes of the sectoral social dialogue at national level.
- e) The transposition of the revised Posting of Workers Directive into national law in the EU Member States and the application of the principles of equal treatment and equal pay to posted temporary agency workers.

- f) The Commission proposal for a Directive on transparent and predictable working conditions, its discussion at EU level, its impact in the implementation phase and good practice with regards how and when to inform employees of their working conditions.
- g) The EU General Data Protection Regulation and related EU data protection policies that are relevant to the temporary agency work sector.
- h) Considering the global context of the European Sectoral Social Dialogue on temporary agency work, the World Employment Confederation-Europe and UNI-Europa will closely monitor discussions and developments linked to the ILO Convention 181 on private employment agencies and its accompanying Recommendation 188.

Furthermore, the two social partners will closely follow the work currently done by the ILO High-level Commission on the Future of Work. A report prepared by the High-level Commission and its discussion at 2019 International Labour Conference, with the possible adoption of a Centenary Declaration.

Joint declarations and joint recommendations might be adopted by the World Employment Confederation-Europe and UNI-Europa when appropriate and relevant.

## 5. Capacity building and promotion of sectoral social dialogue at national level

The sectoral social partners of the temporary agency work sector in several EU Member States continue to be confronted with a capacity building challenge. Either because the temporary agency work sector is still less developed compared to the European average, as for example in most central and eastern European countries, or because there is limited tradition and experience in sectoral social dialogue and collective bargaining.

The World Employment Confederation-Europe and UNI-Europa are convinced that strengthened social partners, which are acting at national level in accordance with national law and practice and reflecting the diversity of national industrial relations models in Europe, can contribute to a well-functioning and futureproof labour market.

To strengthen the capacity building for national sectoral social partners, the following actions will be taken in the framework of the European Sectoral Social Dialogue on temporary agency work:

1. To assess, based on the renewed, multi-annual financial framework and the regulation governing the European Social Funds, opportunities to mobilise EU Social Funds funding that can be used for capacity building purposes. Also the option of country visits of social partners' delegations shall be explored.
2. To explore future cooperation with the International Training Centre of the International Labour Organisation to organise capacity building sessions for World Employment Confederation-Europe members and UNI-Europa affiliates.
3. To consider organising roundtable events in Serbia (2019) and Turkey (2020, if the political situation in Turkey allows for doing so). Roundtable events shall be organised with the financial assistance of the European Commission and the Technical Assistance and Information Exchange Instrument (TAIEX).

## 6. Social Innovation in the employment industry – A joint research of the sectoral social partners on temporary agency work

Following-up on the European Pillar of Social Rights and the initiative launched in 2017 on the access to social protection regardless of the labour contract, the World Employment Confederation-Europe and UNI-Europa will launch a new joint research project on social innovation within the temporary agency work industry. Specific attention will be devoted in this context to access to social protection for temporary agency workers and the special role played in this context by social dialogue (collective agreements), bipartite funds for training, social benefits and complementary pension rights as well as by some one-sided initiatives from social partners.

Focus of the research and analysis will be laid on how to ensure transferable and portable rights for temporary agency workers and the role of social partners and collective bargaining in this context. It will also address initiatives developed to facilitate access to the labour market for temporary agency workers via supportive living conditions (access to credit, to childcare facilities, to transportation means etc.). The project will look into the mission, objectives, structure and governance of this bipartite funds, which have been established in several European countries (including the Netherlands, Belgium, France, Italy, Luxembourg and Spain) and analyse, how these bipartite funds contribute to social innovation by helping to organise the transferability and portability of rights in the temporary agency work sector. Furthermore, the project will map other forms of social innovation and access to social protection based on initiatives taken in the temporary agency work sector, either at the level of social partners or at company level. These may include access to loans for temporary agency workers, access to training and apprenticeships and access to healthcare. A main outcome of the project will be a social innovation compendium of practices developed in the temporary agency work sector. The findings will be put into context with wider labour market tendencies, such as the role of labour market intermediaries. As such, the project is a natural extension of the project conducted in 2017-2018.

## 7. Sectoral developments and the economic situation

The World Employment Confederation-Europe and UNI Europa will follow up and discuss the state of the temporary agency work sector with regards to the economic situation in order to assess the link between the economic cycles and the temporary agency work market. They will also look at developing exchange of information with other sectors on topics of mutual interest, taking care of not interfering with the EU cross-sectoral social dialogue.

## 8. Review

The Work Programme has been adopted by both Sectoral Social Partners during the sectoral social dialogue meeting of 2<sup>nd</sup> of October 2018. It will be reviewed and updated in October 2019.

## 9. Tentative roadmap and planning of Sectoral Social Dialogue activities in 2019

Timing	Main Activity
Q 1 / 2019	<ul style="list-style-type: none"> <li>▪ EP Elections, presentation of the social partners' Manifestos</li> <li>▪ Discussion on the Directive on transparent predictable working conditions</li> <li>▪ Launch of the joint project "Social innovation in the temporary agency work industry"</li> <li>▪ International update: Report of the ILO High-level Commission on the Future of Work (ILO Brussels office as guest speaker – TBC)</li> </ul>
Q 2 / 2019	<ul style="list-style-type: none"> <li>▪ Follow-up of the joint project "Social innovation in the temporary agency work industry"</li> <li>▪ Capacity building workshop / interactive session, ILO ITC expert to be invited to European Sectoral Social Dialogue on TAW</li> <li>▪ National case study on social innovation: The French Social Fund FAS-TT (TBC)</li> <li>▪ Strategic discussions / workshop on futureproof labour market reforms, link to European Semester process, Expert from European Commission, DG Employment to be invited as guest speaker</li> </ul>
Q 3 / 2019	<ul style="list-style-type: none"> <li>▪ "A new leadership in Europe" - Priorities of the new European Commission</li> <li>▪ Progress report on project "Social innovation in temporary agency work"</li> <li>▪ Progress report on Eurofound project "Working Conditions Survey"</li> <li>▪ National Roundtable event in an EU candidate country</li> <li>▪ Mid-term review of the Work Programme, strategic planning for 2020</li> </ul>

The 2020 tentative roadmap will be set up after the mid-term review of the European Sectoral Social Dialogue Work Programme.