



TEMPORARY WORK AGENCIES AND OTHER PRECARIOUS WORK RELATIONSHIPS IN RAIL

**SSDC RAIL PLENARY
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ILO Definition

Temporary Work Agencies are private employment agencies.

Temporary agency employment is where a worker is employed by the temporary work agency, and then hired out to perform his/her work at (and under the supervision of) the user company.

There is considered to be no employment relationship between the temporary agency worker and the user company, although there could be legal obligations of the user company towards the temporary agency worker, especially with respect to health and safety.

The relevant labour contract is of limited or unspecified duration with no guarantee of continuation.

The hiring firm pays fees to the agency, and the agency pays the wages



Temporary agency workers in operational and technical railway professions with safety tasks are used in (e.g.):

Germany

Hungary

Austria

Netherlands

Swiss

Italy

Czech Republic

UK

Sweden



They are **NOT** used in (e.g.):

Denmark

Norway

Finland

Belgium

France

Luxembourg

- There is no culture to 'borrow' temporary personnel for safety relevant tasks / professions
- Collective Bargaining Agreements exclude the use of temporary work agency workers in safety relevant professions;
- Legal provisions to apply the same CBA to TWA workers make it less attractive for companies because they are more expensive
- There is no market: Companies hire staff before training them as e.g. locomotive drivers, the RU pays for the training and only the RU can issue the complementary certificate for rolling stock and route knowledge;



TWAs borrow workers of all safety relevant professions:

- Locomotive drivers
- Shunters
- Train inspectors
- On-board personnel/conductors
- Maintenance workers
- Mobile maintenance services
- Infrastructure maintenance and engineers



General agencies with railway professions included



<https://perdex.de>



Specialised agencies for railways

WE BORROW THE DRIVER



european private logistic partner



ECCC

PERSONALGESTELLUNG

Für den Einsatz in Deutschland und Österreich stellen wir Ihnen



Germany (2015)

126 temporary
work agencies

118 locomotive
drivers

12 on-board staff

21 train inspectors

9 dispatchers

8 (Transportleiter)

22 maintenance
workers



WHAT IS THE PROBLEM WITH TEMPORARY WORK AGENCIES IN RAIL?

1. Equal treatment – precarious conditions - social dumping
2. Railway safety at risk



1. Equal treatment– precarious conditions – social dumping

Conditions in the user undertaking: equal treatment as permanent staff ?

How many TWA workers, how long, to which purpose?

Working time, pay and benefit conditions of temporary work agency workers

From the perspective of the permanent staff in the 'user undertaking'

Do companies reduce their permanent staff in order to regularly work with TWA workers?

Do companies threaten using TWA workers in order to impose lower conditions on permanent staff?

Is equal treatment guaranteed in all benefits or are they used as cheaper labour force?

From the temporary work agency worker's perspective

Fix term contract yes or no ? What are the conditions to be offered a fix term contract in the user company?

Which conditions – is a CBA applied, which CBA?

What are the conditions when not sent to a user undertaking?

How are rights guaranteed (works council; workers reps in TWA)?

How long is the assignment: long term assignment to one company, often changing assignments, just for one route, occasionally ?



2. Safety at risk

- Design of the company's safety management system, application on and integration of TWA workers in the the SMS (procedures and their respect)
- Information and training of TWA workers on the company's internal safety regulation and safety culture
- Level of qualifications and training in safety relevant professions/tasks
- How is the training and certification of rolling stock and route knowledge organised for locomotive drivers
- How is the monitoring and respect of working, driving and rest time guaranteed
- **Liability** in the case of accidents
- Sanctions in the case of non respect of rules



The use of temporary agency workers creates additional interfaces that must be managed by all parties involved

We observe in reality total lack of monitoring and control of all elements

- Quality and respect of the user company's SMS
- Qualification and route knowledge
- Working time

neither by Infrastructure Managers nor by National Safety Authorities

- Exemption: Withdrawal of the Safety Certificate for TX Logistics by the Swedish NSA due to unappropriate staff management procedures in the company's SMS



Exemple: Mannheim Accident (01.08.2014)

- Non respect and wrong application of SMS procedures (no clear definition of tasks, lack of communication between TWA and user company, no documentation of qualifications)
- Lack of route knowledge
- Non-respect of rest time rules
- Loss of controle due to many interfaces:

Locomotive driver was borrowed by a German TWA to a German RU that used an Austrian locomotive, carrying out a transport service for a Dutch logistics company in British ownership



ETF demands: towards the user companies

- TWA workers shall not be used for safety relevant railway tasks;
- Exemptions, limited to 'emergency situations' (short term need of personnel in peak situations) shall be negotiated and agreed with the trade unions and works councils
- The same working and pay conditions as for permanent personnel for TWA workers (equivalent compensation for elements that cannot be applied to non-permanent staff, e.g. pension rights)
- Offering a permanent work contract when the assignment is beyond several days
- Design a training course for TWA workers on the company's SMS and safety regulations; no use of TWA workers without that training
- Agree with the workers reps on procedures and the respective documentation regarding the relation between the user company and the TWA



Status of TWA lending out railway staff with safety tasks

- **such TWAs should be licensed Railway Undertaking to better define responsibilities and liability**

Demands: towards IMs and NSAs

- Monitor TWAs
- Monitor user companies
- Better monitor the qualifications including route knowledge
- Monitor the respect of working and rest time rules
- Introduce severe sanctions



Under safety and equal treatment considerations also relevant:

- Rail operators lending their own workers (e.g. drivers, train inspectors) to other railway companies
- Group internal workers exchange through subsidiaries applying different conditions than the main company



Under safety and equal treatment considerations also relevant:

- Selfemployed drivers offering services through the internet
- Zero-hour contracts (tried by Veolia on the Sweden-Denmark international passenger line)
- Sub-contracted personnel with safety functions like safe evacuation of passengers (on-board staff, private security staff, catering staff)



ACTION BY THE SSSDC RAIL

Memorandum of Understanding and Joint Recommendations

including principles on

- **equal treatment**
- **how to ensure railway safety**



FAIR
TRANSPORT
YES!



Jean-Claude Juncker, President of European Commission,
Strasbourg, 6. October 2015:

*"I am convinced that Europe will succeed only when its economy is both strong and **fair**".*

*"I am taking concerns about potential cases of **abuse** and risks of **social dumping** very seriously".*

*"The **same work** at the **same place** should be remunerated **in the same manner**"*

Help Jean-Claude Juncker to fulfill his vision!