

The Changing Regulatory Mosaic of the Temporary Staffing Industry in Europe

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Outline

- **Temporary Agency Work in Europe**
- **National Varieties of Temporary Staffing Industry**
- **Temporary Agency Work Regulation**
- **Temporary Agency Workers Directive**
- **Summary**

The Research project



*“The institutional context
of the temporary staffing
industry: a European
cross-national
comparative approach”*



The University of Manchester



better work, better life

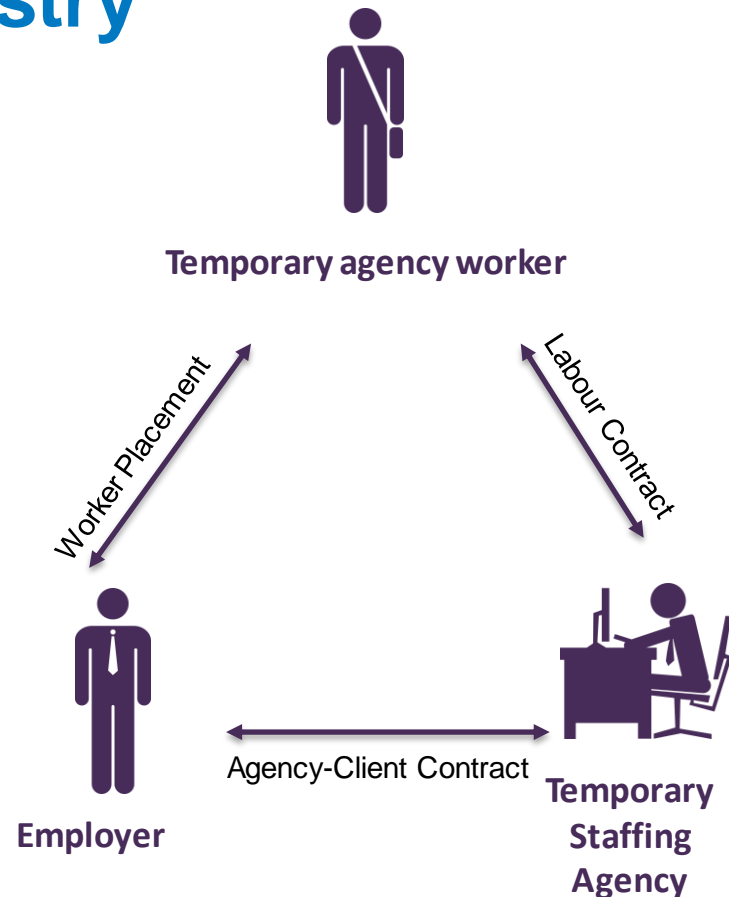
Followed on from an
ESRC funded project:
“The globalisation of the
temporary staffing
industry”



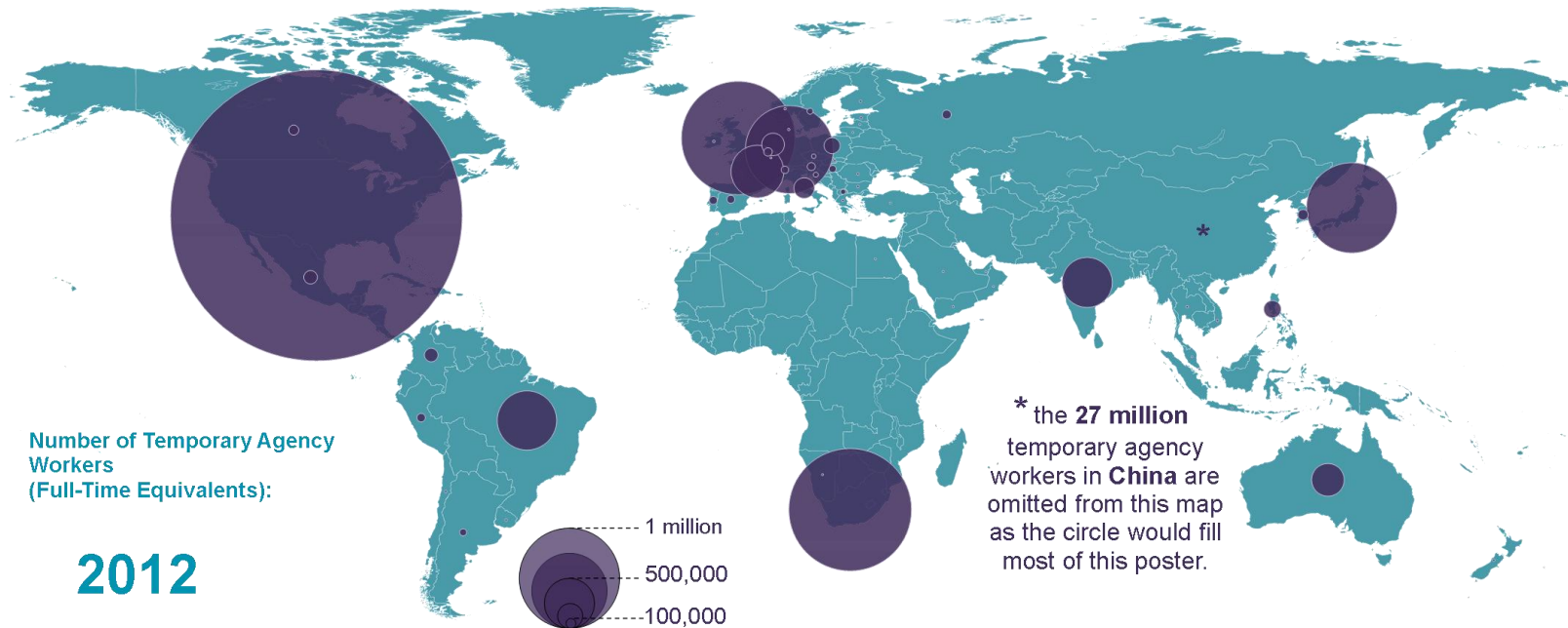
The Temporary Staffing Industry

In 2012 :

- global annual sales revenue for the temporary staffing industry reached €299.3 billion.
- 11.5 million people worldwide were employed as temporary agency workers.
- 137,000 temporary staffing agencies across the globe.

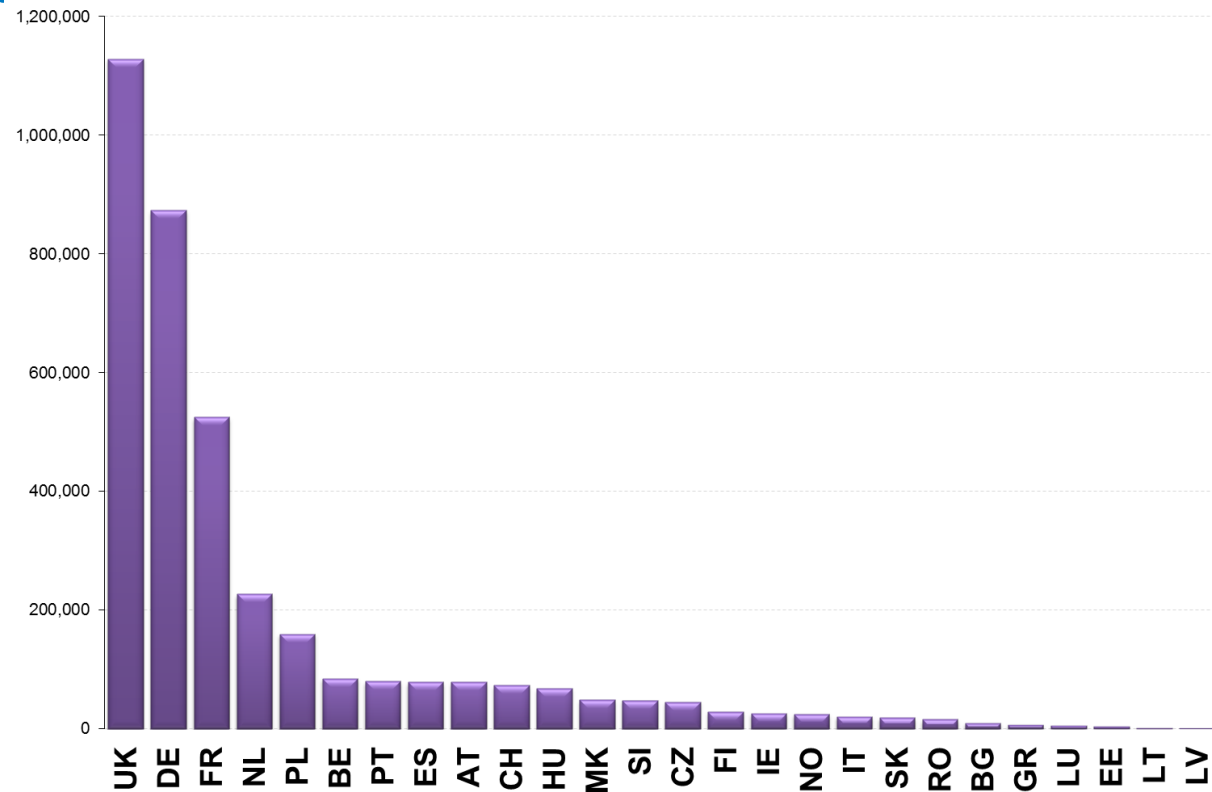


Temporary Agency Work Global Distribution



Temporary Agency Work: Europe

Daily average
number of
temporary
agency
workers (FTE)



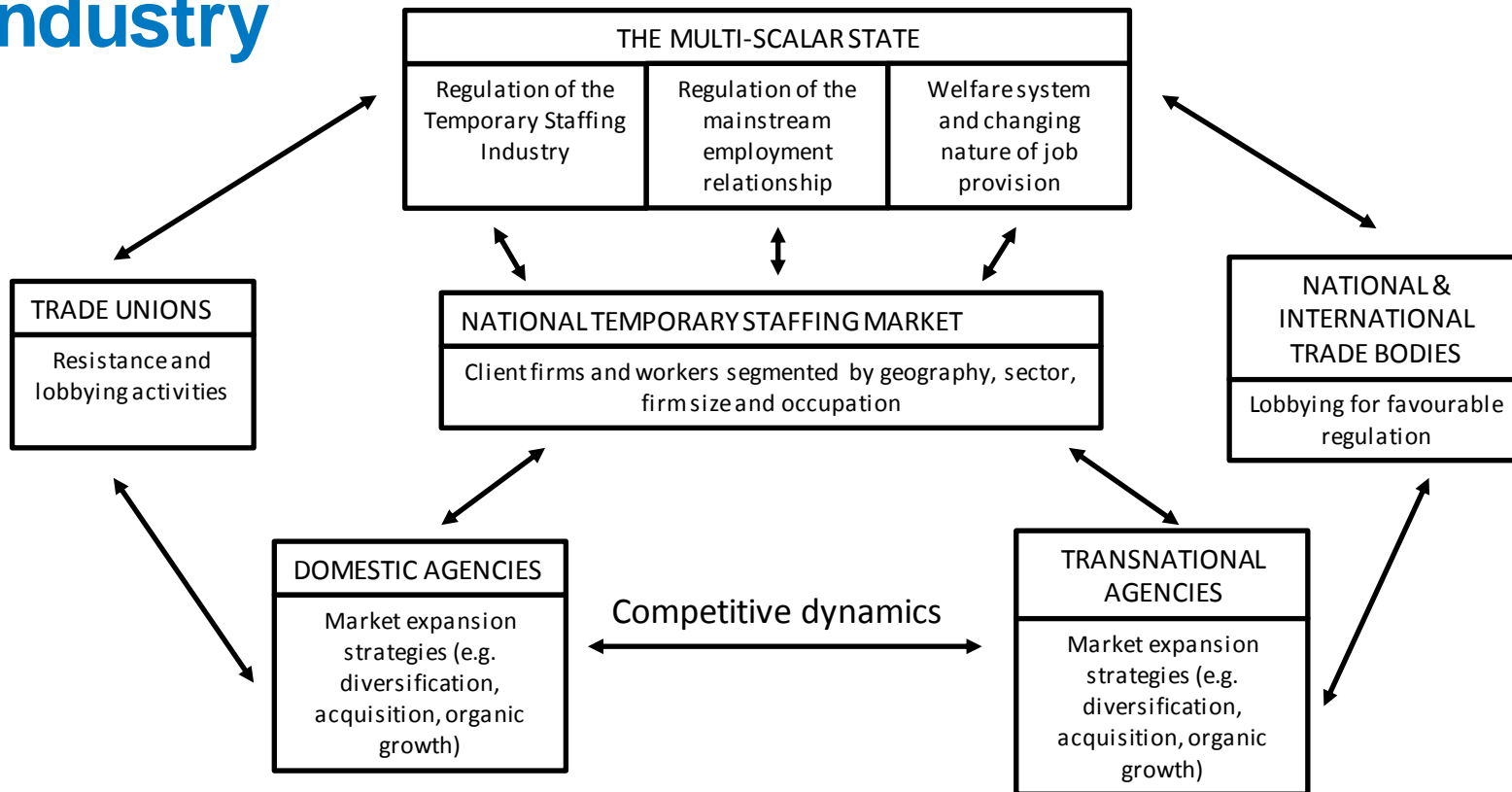
Source: Ciett (2014)

Temporary Agency Work in Europe: Proportion of employees

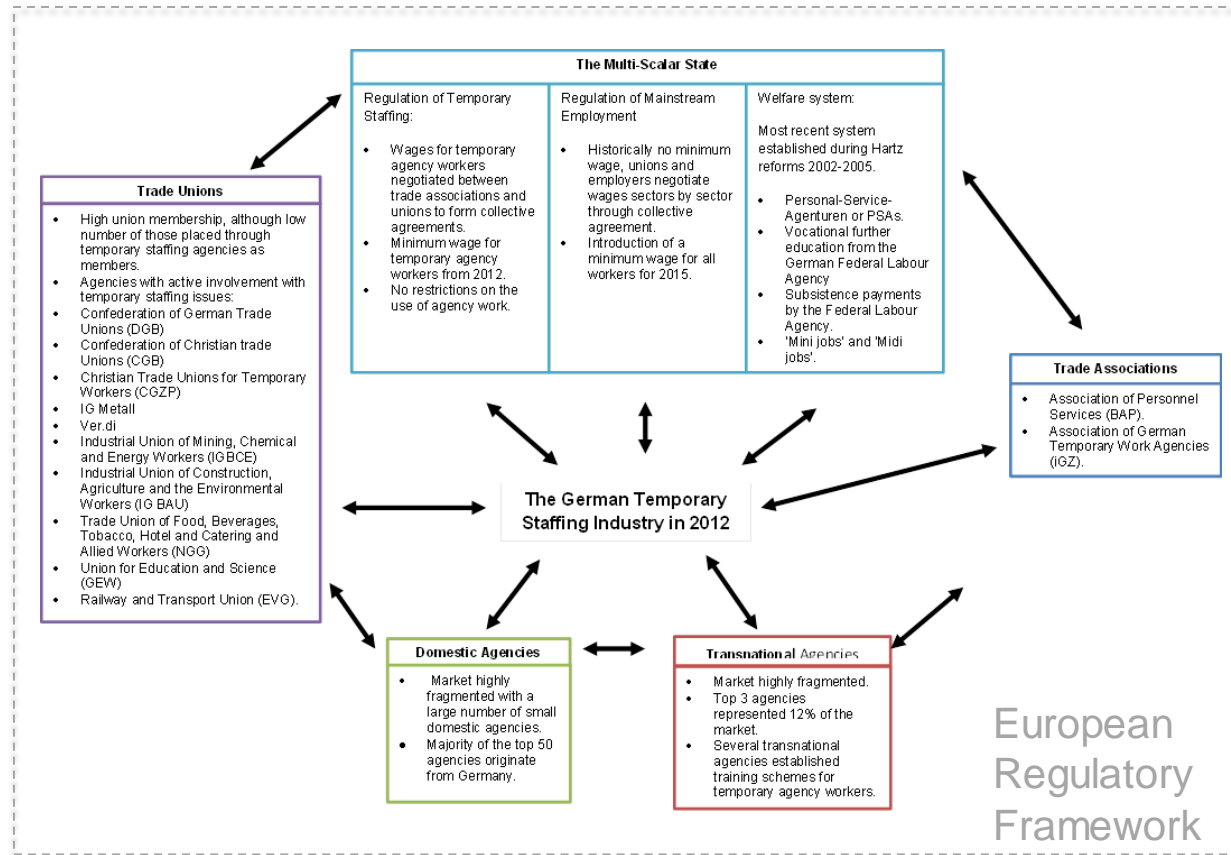


Source: OECD (2014)

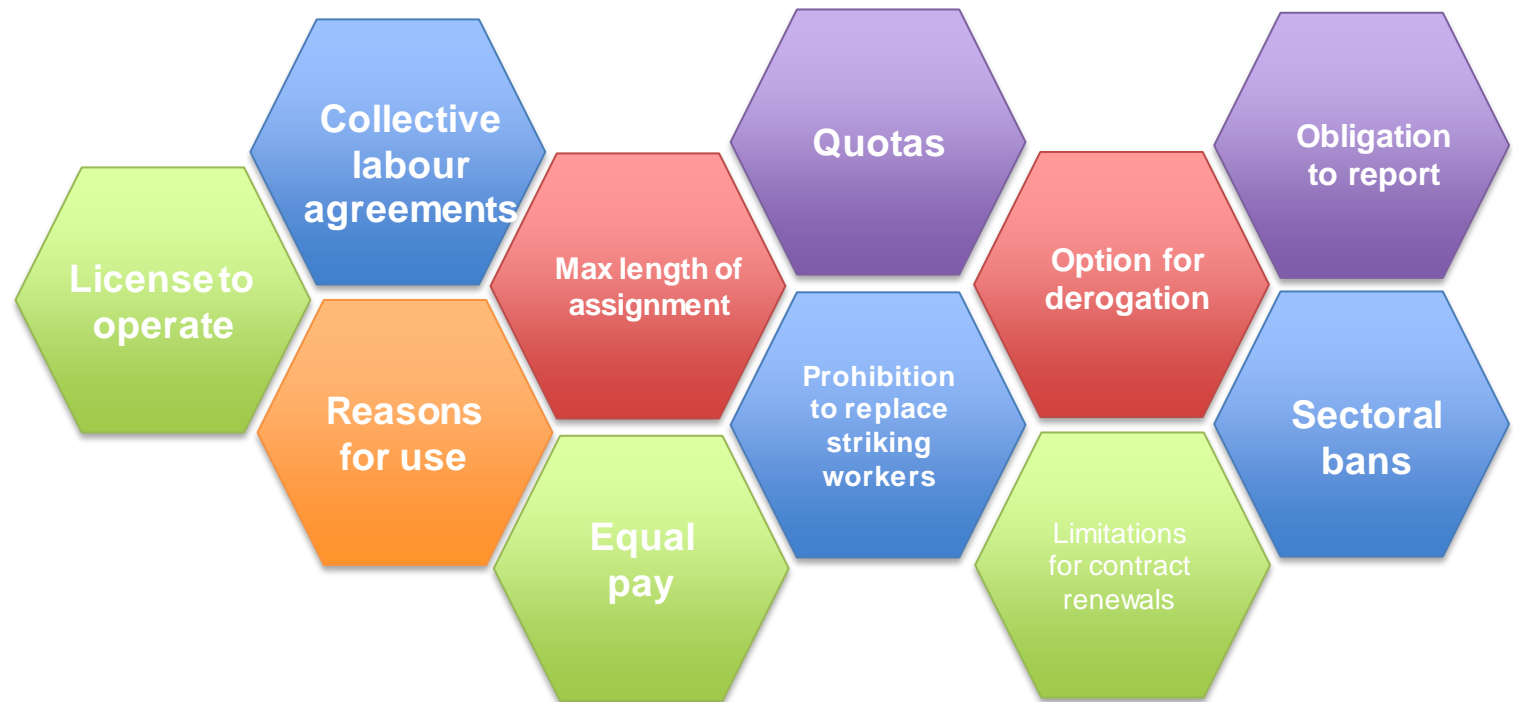
National Varieties of the Temporary Staffing Industry



Temporary Staffing Industry in Germany



Temporary Agency Work Restrictions



Regulation Framework

Regulation of temporary agency work focuses on:

- Obligations for temporary staffing agencies
- Requirements of licenses to operate
- Provisions for equal treatment

Global: ILO C181

European
Regulation:
Temporary
Agency Work

European
Regulation:
Regular
Employment

National
Regulation:
Temporary
Agency Work

National
Regulation:
Regular
Employment

Self-regulation

Global Influences – C181: Private Employment Agencies Convention, 1997



A framework of guiding principles:

- how to improve regulation of TSI
- increase labour market flexibility
- foster development of temporary staffing agencies

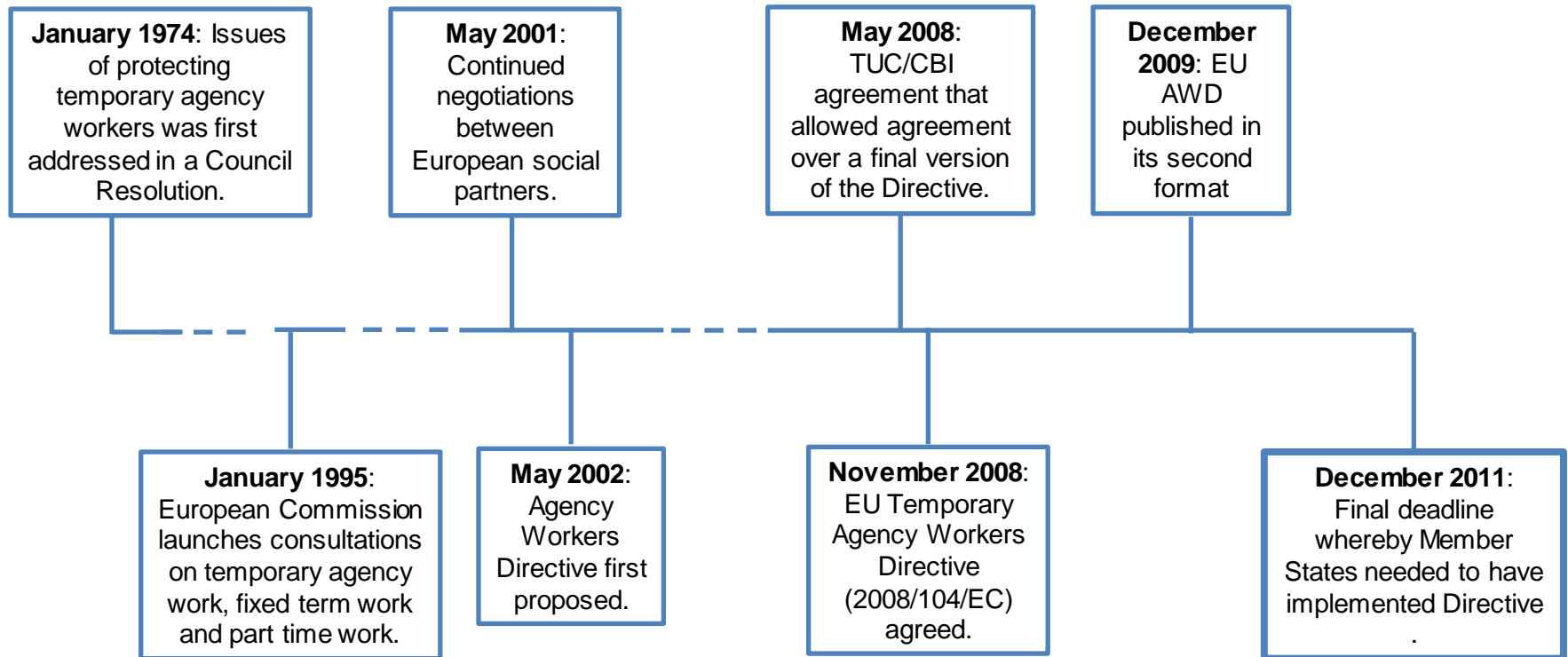
Instrument for setting minimum standards for the industry

| Year Ratified | Countries |
|---------------|-----------------------------|
| 1999 | Spain, Netherlands, Finland |
| 2000 | Czech Republic, Italy |
| 2002 | Portugal |
| 2003 | Hungary |
| 2004 | Belgium, Lithuania |
| 2005 | Bulgaria |
| 2008 | Poland |
| 2010 | Bosnia and Herzegovina |

Typology

| | | |
|-----------------------|--|---|
| Market driven | Europe: <i>UK</i> | Rapid AW development with open regulatory environment with limited restrictions. Liberal economies favouring flexibility over security. |
| Social dialogue based | Western Europe: <i>Netherlands, Switzerland, Austria, Germany</i> | Significant degrees of AW penetration in relatively material markets Moderately regulated , varying balances of flexibility and security Labour market policies organized and regulated by collective agreements |
| | Nordic: <i>Sweden, Denmark, Norway</i> | Historically low AW penetration and low industry development Nordic social and economic system |
| Legislator driven | Western Europe/Mediterranean: <i>France, Belgium, Luxembourg, Italy, Greece, Portugal, Spain</i> | Penetration depending on level of industry development, ranging from above to below average Highly regulated, weighted towards job security over flexibility Historically labour market with high unemployment relative to social dialogue systems. |
| Emerging markets | Eastern Europe: <i>Czech Republic, Lithuania, Slovenia</i> | Often temporary agency work legally recognised only recently Regulatory policies still in development Economic policies and market dynamics still evolving |

Temporary Agency Workers Directive: Timeline



Temporary Agency Workers Directive

Two key sections with the potential to change regulatory landscape:

- Review of restrictions on TAW
- Equal Treatment

| Restrictions Prior to Directive | Country |
|--|--|
| Limited length of assignment | Belgium, Czech Republic, Finland, France, Greece, Luxembourg, Poland, Portugal, Romania, Slovenia, Spain, Sweden. |
| Sectoral bans | Belgium (public sector) France (public sector, doctors) Germany (construction) Luxembourg (public sector) Netherlands (shipping) Spain (Construction, public sector) |
| Limited reasons for use | France, Italy, Luxembourg, Romania, Sweden |
| Limitations on Temporary Agency work contract renewals | France, Italy, Luxembourg, Romania, Sweden |
| Waiting period | France, Luxembourg, Hungary |
| Limitations on number of temporary agency workers | Austria, Italy, Sweden. |

Temporary Agency Workers Directive: Implementation

- Duty to transpose Directive into national law by December 2011
- All member states have transposed the Directive.
- Some countries were late with the last entering into force 1 July 2013.
- National law
- Collective agreement
- Combination of both
- Some did not have legal framework
- Some amended existing legislation
- Some considered national provision already compliant

Temporary Agency Workers Directive: Restrictions

Article 4 states that prohibitions or restrictions on the use of temporary agency work are justified only on grounds of general interest relating to particular to:

- Protection of temporary agency workers
- The requirements of health and safety at work
- The need to ensure that the labour market functions properly
- The need to ensure that abuses are prevented

Reasons for continued restrictions or prohibitions

- 'Protection of agency workers'
- 'Requirements of health and safety'
- 'Need to ensure the labour market functions properly'
- 'Need to protect permanent employment'
- 'Need to ensure abuses are prevented'
- 'Right to strike'

Temporary Agency Workers Directive: Equal Treatment

| Prior to Temporary Agency Workers Directive | |
|---|--|
| Countries with Equal treatment | Austria, Belgium, Czech Republic, Denmark, Finland, France, German, Greece, Hungary, Italy Luxembourg, Netherlands, Poland, Portugal, Romania, Slovakia, Spain, Sweden |
| Countries with no equal treatment | Ireland , UK |
| Countries with no specific regulation | Bulgaria, Cyprus, Estonia, Lithuania, Latvia, Malta |

Article 5(1) lays down the principle of equal treatment - according to this principle, from the first day of their assignment, agency workers have to have the basic working and employment conditions that would apply if they were recruited directly by the user firm to occupy the same job

European Commission Review

“I am pleased to see that the Directive on temporary agency work has brought more decent working conditions for agency workers while providing businesses with flexibility they need for their development...”

László Andor, European Commissioner for Employment, Social Affairs and Inclusion

Commission Review:

- All Member States have adopted measures to implement Directive 2008/104/EC on temporary agency work and have in general done so correctly and applied its provisions in practice.

European Commission Review

“However, the Commission urges Member States to take further steps to ensure equal treatment for agency work.”

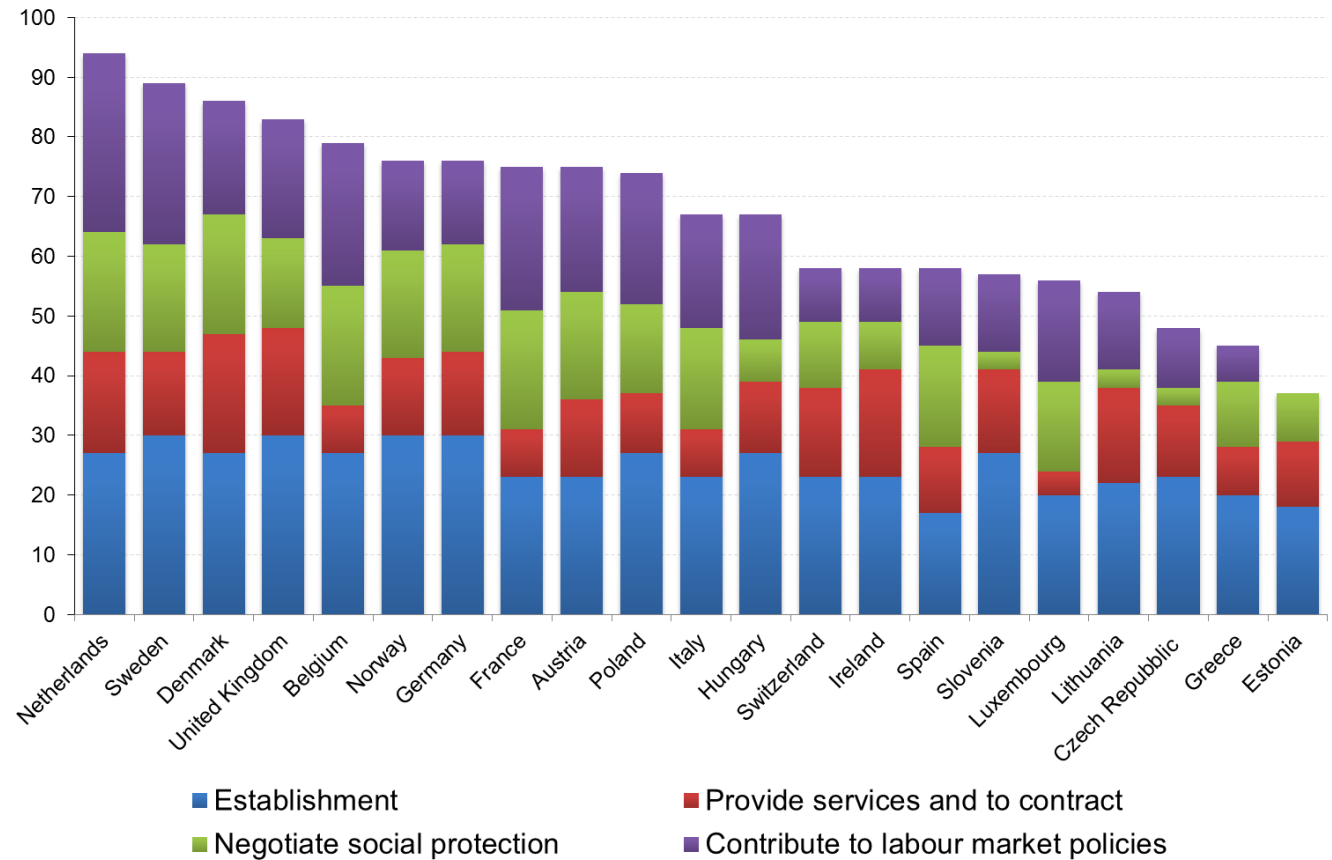
László Andor, European Commissioner for Employment, Social Affairs and Inclusion

Further work needed:

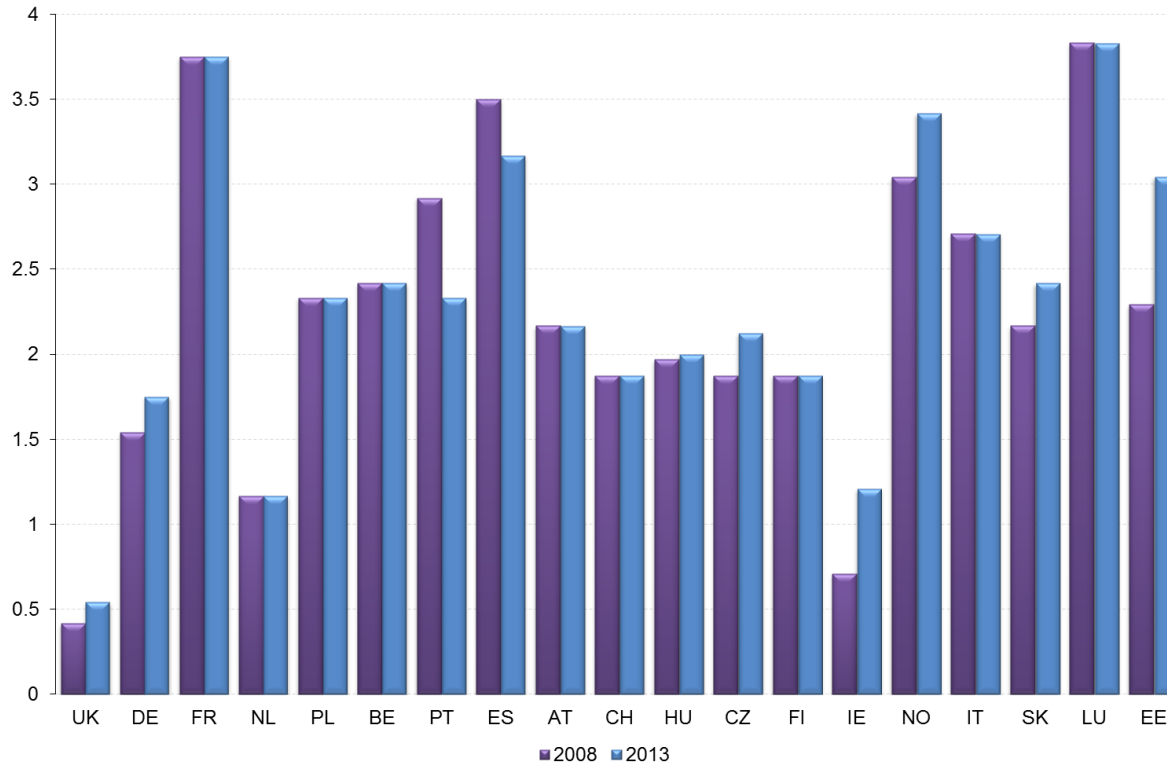
- Where derogations have been used to prevent application of Directive
- Although some restrictive measures have been removed, in many cases Member states maintained the status quo.

Regulatory Efficiency Index

- Right of establishment
- Right to provide services and contracts
- Right to negotiate social protection
- Right to contribute to labour market policies



Employment Protection Legislation Indicators



Employment Protection Legislation Indicator comprised of:

- Types of work for which temporary agency work is legal.
- Restrictions on the number of renewals of temporary agency work assignments
- Maximum cumulated duration of temporary agency work assignments
- Temporary staffing agencies authorisation required or reporting obligations
- Equal treatment of regular and agency workers at the user firm

Summary

- The regulation of temporary agency work in Europe is complex and varies between different national environments
- Temporary Agency Workers Directive sought to harmonise the regulations on across Europe
- Regulatory variation in Europe remains.
- *Next steps: to explore the impact of the Directive in more detail – on agencies and workers.*