European Temporary Staffing: The Changing Regulatory Landscape

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Introduction

In Europe, a policy priority is to maintain a balance between flexibility and employment security (OECD, 2004). The concept of achieving an appropriate balance in the labour market between ensuring the flexibility of employment options and providing sufficient levels of social security has been termed *flexicurity* (OECD, 2004). Temporary agency work, in turn, is seen as a facilitator of flexibilisation and hence a key component of the drive towards a labour market that operates on this flexicurity principle (ILO, 2009). Restrictive regulation is seen as a prime obstacle to the expansion of the temporary staffing industry and historically there have been many areas of Europe that have been dominated by strict employment protection legislation (EC, 2009).

This Working Brief outlines patterns of the regulation of temporary agency work across Europe from 1990 to 2008 using one of the OECD Employment Protection Legislation Index measures. This index will be used as a proxy for the regulation of the temporary staffing industry within Europe. Through exploring the temporal changes to this index across the continent there is evidence of convergence towards a model of lower levels of regulation. It begins by providing a description of the OECD Index of Employment Protection, its features and uses. It then explores the spatial variations of this index across Europe, before moving on to examining how the index values have changed since 1990.

Background to the OECD Index

The OECD index on temporary agency work is one of the OECD indicators on Employment Protection and is composed of several factors including: the types of work which temporary work agency employment can be used for; restrictions on the number of renewals and maximum duration of temporary work agency contracts; regulation concerning establishment of temporary
work agencies; and requirements concerning equal treatment of temporary agency workers. The score for each country ranges from 0-6 depending on the extent of regulation and restrictions placed on the temporary staffing industry, with high figures indicating a restrictive regulatory environment. For more information on the OECD Employment Protection Legislation, see the OECD Employment Outlook (OECD, 2009).

**Regulation in Europe**

This section highlights how regulation of temporary staffing has varied not only across Europe, but also over time, with snapshots of the regulatory landscape in 1990, 2000 and 2008. There has been a general trend towards lower levels of regulation, which is in keeping with the European Commission and ILO recommendations to reduce restrictive elements of employment legislation in order to promote the flexible labour market (EC, 2007; ILO, 2009).

First, examining the regulatory landscape in 1990 in Figure 1, it is possible to see that there are a broad range of levels of employment protection legislation for temporary staffing but a tendency for restrictive legislation in northern and southern in Europe and fewer liberalized markets.

**Figure 1: Employment Protection Legislation for Temporary Staffing in Europe 1990**

![Map of Europe showing employment protection legislation scores in 1990.](source: Constructed using data from OECD (2009))
• Of the 21 countries with sufficient data, 55% are classified as having a high regulatory score (above 3.0) for employment protection legislation for temporary agency work. The higher levels of regulation are concentrated in the southern and northern areas of Europe.

• Seven countries have a regulatory score below 1.9, which are mainly located in eastern Europe as temporary staffing was yet to be seen as a distinct market which needed regulation. The UK and Ireland exhibit a low score due to more mature, highly liberalized nature of the temporary staffing market.

Secondly, Figure 2 illustrates how the landscape has changed by 2000, with a number of countries experiencing reductions in the level of employment protection for temporary staffing.

**Figure 2: Employment Protection Legislation for Temporary Staffing in Europe 2000**

Source: Constructed using data from OECD (2009)
- By 2000 the situation has changed considerably as the agency work industry is increasingly liberalized in many countries; only Greece (5.5) and Turkey (5.5) retain scores which place them in the higher categories. Spain has achieved some reduction but still receives a high regulatory score of 4.

- 68% of countries with sufficient data have obtained a regulatory score below 3.0 including many countries of eastern Europe and Scandinavia, as well as the UK and Ireland.

Thirdly, the levels of employment of legislation experienced further reductions by 2008 to generate the European regulatory landscape seen in Figure 3.

**Figure 3: Employment Protection Legislation for Temporary Staffing in Europe 2008**

Source: Constructed using data from OECD (2009)

- By 2008 there are no countries with a regulatory score above 4.9, and the highest score of 4.88 is attributed to Turkey.

- 78% of countries now have a score below 3.0, with the lowest seen in the UK (0.29) and Sweden (0.71).
The highest levels of restrictions are located in the southern European countries while most of northern and eastern Europe have low scores.

Changes in Regulation

It is clear that there has been significant change in the extent of employment protection legislation that has affected temporary staffing in Europe. There has been a clear transition for many countries from high levels of regulations for the temporary staffing industry while other countries have seen small changes or have remained stable. The extent of change across Europe can be seen in the following section.

Changes 1990-1999

Figure 4 provides an overview of the changes that have occurred to the legislation between 1990-1999 with changes seen in nearly all countries across Europe.

Figure 4: Change in Employment Protection Legislation for Temporary Staffing in Europe 1990-1999

Source: Constructed using data from OECD (2009)
While many countries retained the same regulatory scores during the 1990s nine countries experienced decreasing levels of regulation (41% of countries included here) with the highest levels of change experienced in Denmark and Sweden.

Changes 2000-2008
The final map, Figure 5, presents the changes witnessed to the employment protection legislation between 2000-2008 where a greater level of change has taken place compared to 1990-1999 seen in Figure 4.

Figure 5: Change in Employment Protection Legislation for Temporary Staffing in Europe 2000-2008

- From 2000-2008 there are no countries included here which experienced no change in employment protection legislation related to temporary staffing.
- Greece experiences the greatest reduction in regulatory score which can be attributed to the fact that until 1998 temporary work agencies were prohibited.
- It should be noted that many eastern European countries experienced an increase in regulatory score due to the fact that temporary staffing became legalised in this period,

Source: Constructed using data from OECD (2009)
and therefore became subject to a greater level of regulation as it becomes recognised as it now becomes subject to a greater range of employment protection legislation.

- Belgium, Germany, Norway, Portugal, Spain, Turkey, the UK, and Sweden all experienced a reduction in their regulatory score (0.1-0.5 points), indicating a trend of liberalisation for temporary staffing across several areas Europe.

Conclusions

This Working Brief has outlined the patterns of employment protection legislation that affects the use of temporary agency work and changes that have occurred to this regulation across Europe since 1990. The greatest changes have been experienced in Greece and Turkey with substantial reductions in restrictive regulation of temporary agency work. Eastern Europe has witnessed an increased in regulation due to the recognition of the industry in this region. More mature temporary staffing markets such as the UK and experienced little change as they remained highly liberalised throughout the last two decades. All countries for which OECD data was collected experienced some level of change between 1990-2008, while widespread change was more prominent in 2000-2008.

The European Temporary and Agency Workers directive (2008/104/EC) which is currently being implemented across Europe attempts to ensure equal treatment of agency workers with their permanent worker counterparts. It will be interesting to see the effect this has on this index in the future. For more information on the Agency Workers Directive, and its importance for the temporary staffing industry in Europe please see Working Brief 53.

References:


ILO 2009, Private employment agencies, temporary agency workers and their contribution to the labour market. Geneva, ILO


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