



Resolution 1534 (2007)¹

The situation of migrant workers in temporary employment agencies (TEAs)

Parliamentary Assembly

1. The increased mobility of workers and services both on the European internal market and among the countries of the Commonwealth of Independent States (CIS) will inevitably lead to new patterns of employment in a wider Europe. Problems, although of a different nature, exist for both regular and irregular recruitment and are likely to increase due to the growing national and transnational temporary recruitment sectors.
2. Poverty, the absence of the rule of law, the lowering of labour standards, the propensity of criminal groups and corruption in certain countries, in particular in eastern Europe and many CIS countries, all contribute to an increase in irregular recruitment, forced labour and human trafficking.
3. Regular and irregular transnational temporary recruitment is also growing in central and eastern Europe, with cheaper migrant labour coming from further east and south-east.
4. Recruitment through legitimate temporary employment agencies is only recently emerging in central and eastern Europe. Without social partners capable of effective self-regulation, legislation is needed to advance the reputation of this form of employment to both user companies and individual job seekers using this type of recruitment. Strong regulation and enforcement mechanisms (licensing and labour inspectorates) could help to legitimise the activities of temporary employment agencies in such start-up situations.
5. In the context of the European Union, the problems are of a different nature and consist of regulating the main activities of temporary employment agencies in order to safeguard labour standards and to create a level playing field for the internal market.
6. The United Kingdom, Ireland and Sweden applied an open door policy with regard to employment of workers from the new European Union member states at the time of the enlargement to EU-25. Transitional agreements now have to be reached with Bulgaria and Romania. It is therefore necessary to establish clear rules and seek greater harmonisation within the internal market. In this regard, the Parliamentary Assembly welcomes the adoption of Directive 2006/123/EC of the European Parliament and of the Council of the European Union of 12 December 2006 on services in the internal market.
7. Some Council of Europe member states have already adopted rules that ensure that temporary migrant workers receive the same treatment in terms of wages, working conditions and social rights as the local labour force in their respective countries. It is important therefore – especially in view of the present and foreseen increase in the activities of temporary employment agencies – that in all Council of Europe member states basic rules exist to ensure the equal treatment and basic rights of temporary and migrant workers.
8. Article 19 of the revised European Social Charter (ETS No. 163) already provides guidelines for some of the basic standards with regard to the right of migrant workers and their families to protection and assistance, namely treatment which is not less favourable than that enjoyed by nationals in respect of remuneration and working conditions, membership of trade unions, enjoyment of the benefits of collective bargaining, and accommodation.

1. *Assembly debate* on 24 January 2007 (6th Sitting) (see [Doc. 11109](#), report of the Committee on Migration, Refugees and Population, rapporteur: Mr Henderson). *Text adopted by the Assembly* on 24 January 2007 (6th Sitting).



9. Moreover, the International Convention on the Protection of All Migrant Workers and Members of their Families, the International Labour Organization (ILO) Conventions on Migrant Workers (C143) and on Private Employment Agencies (C181), the Palermo Protocols and the European Convention on the Legal Status of Migrant Workers (ETS No. 93), and the Council of Europe Convention on Action against Trafficking in Human Beings (CETS No. 197) provide additional standard setting and a good framework for co-operation and joint action between member states of the Council of Europe and beyond.

10. In addition, the Assembly recalls its [Resolution 1509 \(2006\)](#) and [Recommendation 1755 \(2006\)](#) on human rights of irregular migrants and [Resolution 1501 \(2006\)](#) and [Recommendation 1748 \(2006\)](#) "Working migration from the countries of eastern and central Europe: present state and perspectives".

11. Finally, the Assembly welcomes the decision of the European Committee on Migration (CDMG) to focus the theme of the forthcoming 8th Conference for European Ministers Responsible for Migration Affairs on labour migration and co-development. The ministerial conference will create the opportunity to reinforce co-operation mechanisms between the countries of origin, transit and destination in order to improve the regulation and management of labour migration in Europe.

12. In light of the above, the Assembly invites those member states of the Council of Europe which have not yet done so to:

12.1. sign, ratify and implement the International Convention on the Protection of All Migrant Workers and Members of their Families; the ILO Conventions on Migrant workers (C143) and on Private Employment Agencies (C181); and the Palermo Protocols;

12.2. sign, ratify and implement the European Convention on the Legal Status of Migrant Workers and the Council of Europe Convention on Action against Trafficking in Human Beings;

12.3. sign, ratify and implement the revised European Social Charter and its Article 19;

12.4. enforce existing labour laws and regulations with regard to transnational labour recruitment and the protection of migrant workers;

12.5. establish the principle of equal treatment of temporary workers and migrant workers on the national labour market;

12.6. regulate providers (temporary employment agencies) through registration and licensing schemes;

12.7. include, in their national legislation and regulations, clear and comprehensive definitions of what constitutes a private temporary employment agency or recruiter and of the contractual status of workers employed through temporary agencies;

12.8. promote the use of self-regulation and the drafting of national codes of conduct;

12.9. establish clear liability of temporary employment agencies and user companies;

12.10. apply dissuasive and proportionate sanctions both for temporary employment agencies and user companies in breach of regulations;

12.11. establish co-operation between labour inspection, trade unions, temporary employment agencies, NGOs and police with a view to identifying gangmasters and abusive practices in breach of national labour regulations;

12.12. allocate more resources for national labour inspection;

12.13. give incentives to temporary employment agencies to allocate a percentage of resources to vocational training;

12.14. continue efforts to tackle irregular migration;

12.15. establish international co-operation between labour inspection, police and border guards;

12.16. make information on migrant workers' rights and national labour standards easily accessible to migrant workers;

12.17. enable migrant workers to claim more easily their rights through legal assistance and recourse to an ombudsperson's office;

12.18. encourage trade unions to involve migrant workers and defend their rights.

13. The Assembly invites the institutions of the European Union to re-examine the EU Commission's proposal for a directive on working conditions for temporary agency workers.