

LABOUR ISSUES THROUGH TEMPORARY EMPLOYMENT AGENCIES

DORINA NIȚĂ, CLAUDIA ISAC *

ABSTRACT: *While trying to cope with the current economic crisis and to stop the increase of unemployment, the EU strategies in the field of employment focused on the less conventional forms, such as temporary employment. Temporary employment is a form of employment with two major features: temporary agency work and jobs with fixed-term contracts. At EU level, the use of temporary employment is one of the most effective means of flexible labor market creating new jobs and thus reduce unemployment, despite the great differences that exist in addressing this form of employment in the member states due to country-specific policies and customs. Currently in Romania there is a slight preference for this form of employment, even if its dimensions are still very far from those seen in the developed countries of the European Union.*

KEY WORDS: *temporary employment, flexible labor market, personal leasing.*

JEL CLASSIFICATION: *J21, J22, J23, J41, K31.*

1. INTRODUCTION

Representing a flexible income alternative, temporary employment as defined by Law No. 53/2003 from the Labour Code, means "work of a temporary employee who has concluded a temporary employment contract with a temporary employment agency and who is available to work temporarily for the client under their supervision and management of the latter". In the same sense, the three parts of the concept of temporary employment - temporary employee, temporary work agency and client are defined as follows:

- *a temporary employee* is the person who has an employment contract with a temporary work agency in order to make himself available for the client to work temporarily under the supervision and management of the latter;

* *Assoc. Prof., Ph.D., University of Petroșani, Romania, dorinamagda@yahoo.com
Assoc. Prof., Ph.D., University of Petroșani, Romania, isacclaudia@gmail.com*

- *a temporary employment agency* is a legal entity, authorized by the Ministry of Labour, Family and Social Protection, which concludes contracts of employment with temporary employees, to put them at the disposal of the client, to work within the timeframe established by the contractor and under its leadership.
- *the client* is any natural or legal entity for whom and under the supervision and leadership of which temporary employees hired by temporary employments agencies can work.

Typically, in an employment relationship there are two parties involved: the employer and the employee. In the case of labour through temporary employment agencies there is also a third party involved, and that is the client, the one that supervises the employees sent to their location on a temporary period of time (employed and remunerated by a temporary work agency). Since it outlines the services that 'hire employees', work through temporary employment agencies is more frequently called 'personnel leasing'.

This relation materializes in a signed contract:

- temporary employment contract concluded between the temporary employment agency and the employee;
- service agreement between the temporary employment agency and the client.

A very important element of regulation regarding labour through a temporary employment agency is the fact that both European and national legislation assert that the basic conditions of work and employment and wages applicable to temporary employees are, for the period of working temporarily for a client, the ones which would apply to employees in case they were recruited directly by that client to perform the same tasks (the European legislation Directive 2008/104/EC of the European Parliament and of the Council issued on November 19th 2008 regarding work through temporary employment agencies; the Romanian legislation Law No. 53/2003 - Labour Code; HG-1256/2011 and Law No. 12/2015).

The use of temporary labour is possible, according to the Labour Code, only for carrying out a specific and temporary task, called temporary work assignment, and only in the following cases: replacing an employee whose contract of employment is suspended, and for the duration of this suspension; carrying out seasonal activities; performing specialized or occasional activities.

There is a restriction as regards the period of time for temporary employment. In accordance with the provisions of the Labour Code, temporary employment is established for a period of not more than 24 months, however this period can be extended for successive periods which, added to the initial duration of employment, cannot exceed 36 months.

2. IMPORTANCE OF EMPLOYMENT THROUGH A TEMPORARY EMPLOYMENT AGENCY

There are many advantages for all three parties involved; temporary employment agency have developed steadily, anticipating in 2009 that more than 2% of the total labour force in the EU, meaning about 10 million people will have been hired by a temporary work agency, at a certain time - the phenomenon has spread

particularly in the UK, and in France, Germany and the Netherlands (European Commission).

There are *advantages* to each side of this triangular relationship, such as (Dumitru; Mirea; Nicutar; Pătrașcu, 2009):

1) *for the temporary employee:*

- it represents a form of employment;
- the opportunity to acquire new knowledge and experience in order to reintegrate into an activity or to specialize;
- the opportunity to get familiarize and join various realities existing in companies;
- they benefit from the same economic treatment as permanent employees hired by the company;
- flexibility of employment agencies;
- it can be a step forward to permanent employment (upon completing temporary employment, the client can offer a permanent position).

2) *for the client:*

- temporary employment meets substitution requirements (which were actually the basis for the emergence of this form of employment), and needs of additional personnel according to circumstances that need to be addressed urgently: the unexpected absence from work of some employees, increases in production, unexpected demands;
- temporary employment provides flexibility, because it gives the possibility to hire staff during times of intensified activities without having to recruit auxiliary staff in the Human Resources department in order to manage the processes of recruiting, hiring and managing personnel;
- they can get pre-selected, qualified and flexible labour force in a very short time, as opposed to selection and recruitment procedures that would be implemented by the Human Resources department within a company in compliance with the laws in force in this field;
- labour costs become, at least in part, a variable expense which does not weigh heavily, like fixed costs, in the balance sheets;
- there are fewer instances of litigation as compared to the contracts of employment concluded for an indefinite period;
- it can be used by companies that need to experience development or innovation strategies (launching new products on the market, the penetration into new markets/geographical areas), thus reducing the risks of possible failures.

3) *The temporary employment agency* receives a commission from the client for providing the services carried out by the employee under a contract of the provision of services (temporary employment services are subject to taxation both with a variable fee and a fixed fee regardless of the salary cost. The price is determined mostly depending on the volume and duration of the contract and it ranges between 7 and 20% of the total cost of the employee's salary. The fixed fee may vary between 100 and 250 RON per each employee (Enea).

3. DIMENSIONS OF LABOUR THROUGH TEMPORARY EMPLOYMENT AGENCIES IN ROMANIA

Currently in Romania, according to the National Registry of temporary employment agencies, managed by the Ministry of Labour, Family and Social Security - April 2016, there are 772 (www.mmuncii.ro) registered temporary employment agencies, as compared to 305 registered in 2011.

According to ARAMT (Romanian Association of Temporary Employment Agencies) forecasts, temporary employment had increased by 10% in 2014 as compared to the previous year. In Romania, over 52,700 people were included in the temporary employment scheme in 2013 (the equivalent of over 20,000 full-time jobs), the figure is almost identical to that registered in 2012 (52,214 temporary employees) and represents nearly twice the number of workers in 2010, when there were 29,926 temporary employees (Enea).

In Romania, at the beginning of the year 2016, it is believed to be about 80,000 people hired with temporary employment contracts (1.4% of the total of employees), while the European average is over 10%. This trend is increasing especially in Bucharest and in the western part of the country.

The majority of those employed on a temporary basis in Romania (46%) have graduated high school and 23% have higher education. Another significant percentage of 20% is represented by students and only 12% come from among those who have no high school education (skilled and unskilled workers). 33% of temporary employees come from among the unemployed, 13% are people who have had previous employment contracts for fixed periods, 18% were inactive people, 21% are students, and 5% have been temporary employees before.

Approximately 45% of the temporary hiring are for a period of over 3 months, 37% for periods between 1 and 3 months, and 18% represent short-term employment (less than one month). These weightings of the periods of employment off the total temporary employment market have remained relatively constant since 2010 till now. Short terms apply for unskilled workers, who are hired for specific projects.

As regards the field of activity, most of the temps work in services (FMCG, banking and finance, BPO and call center) and in manufacturing (automotive). Romania falls in global media, with 34% in services and 39% in manufacturing, as compared to the average of 37% and 32% respectively. By comparison, Greece registers 82% in service, India-78%, and close to our profile one may find Czech Republic, France and Germany. As for the positions preferred by temps, there are two distinct directions: blue collars and entry level (construction workers, bricklayers, unskilled labor force) and specialists (IT and accounting).

For entry-level positions there is the personal leasing especially in the production field, as for specialist and managing positions with temporary employment contracts there are often IT specialists and specialists in developing industries. The local market for temporary employment and recruitment services is currently estimated at over EUR 200 million.

Unfortunately, the data presented previously formed the dashboard of a temporary employment and services recruitment market located on the last place in the

rankings of countries of the European Union, the closest (in terms of temporary employees as percentage of the total number of employees) in 2015, being Lithuania. The average at the level of EU-28 was, in 2015 of 14.2%, which is ten times higher than the value registered by our country in the same year, and the difference between the top country value, Poland, and Romania was of 20%.

Table 1. Temporary employees as percentage of total number of employees

Country	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015
UE-28	14.5	14.6	14.1	13.6	13.9	13.9	14.0	13.7	13.7	14.2
Poland	27.3	28.2	26.9	26.4	27.2	26.8	26.8	26.8	28.3	28.0
Spain	34.0	31.6	29.2	25.3	24.8	25.2	23.4	23.2	24.0	25.2
Portugal	20.4	22.3	22.8	21.9	22.8	22.0	20.5	21.4	21.4	22.0
Croatia	12.9	13.2	12.3	12.0	12.8	13.5	13.3	14.5	16.9	20.3
...
Bulgaria	6.1	5.1	4.9	4.6	4.4	4.0	4.4	5.6	5.3	4.4
Latvia	7.2	4.2	3.4	4.3	7.1	6.7	4.7	4.3	3.3	3.8
Estonia	2.6	2.2	2.4	2.4	3.7	4.5	3.5	3.5	3.1	3.4
Lithuania	4.6	3.8	2.4	2.3	2.4	2.7	2.6	2.7	2.8	2.1
Romania	1.8	1.6	1.3	1.0	1.0	1.4	1.5	1.4	1.5	1.4

Source: http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=lfsa_etpgan&lang=en

Unfortunately, our country holds the last position in the ranking as regards the percentage of young people employed as temps off the total number of employees, and in this case the average EU-28 in 2015 is ten times higher than the value registered by our country in the same year. In general, temporary employment has increased or decreased much more for the youngest age group (15–24 years-old) than for other age groups, except for countries like Latvia, Spain and Sweden (European Foundation for the Improvement of Living and Working Conditions, 2013).

There are large differences between EU countries regarding temporary work due to country-specific policies and customs. Three different trends were found in the evolution of temporary employment during the crisis by the European Foundation for the Improvement of Living and Working Conditions in 2013 (European Foundation for the Improvement of Living and Working Conditions, 2013):

1. the increase of temporary employment due to increasing flexibilisation of employment conditions (as Czech Republic, Estonia, Ireland, Latvia, Lithuania, Malta, the Netherlands and the UK);
2. the decline of temporary employment followed by a slow recovery towards the pre-recession level (often not yet reached) (as Austria, Belgium, Finland, France, Italy, Luxembourg, Romania, Sweden, Slovakia and Slovenia, and to some extent also in Cyprus and Portugal);
3. a steady decline of temporary employment, as can be seen in Bulgaria, Norway, Poland and Spain.

Table 2. Young temporary employees as percentage of total number of employees

Country	2007	2008	2009	2010	2011	2012	2013	2014	2015
UE-28	30.4	29.7	29.4	30.8	31.4	31.2	31.7	32.3	32.6
Spain	49.3	46.4	42.5	44.7	47.1	46.6	49.3	52.2	55.1
Poland	49.6	46.5	46.0	48.0	48.8	49.6	50.6	53.5	54.3
Slovenia	48.3	48.0	47.9	48.9	49.2	48.7	48.7	49.8	53.5
Portugal	42.5	43.9	43.4	44.9	45.8	44.7	48.0	48.7	52.2
...
Estonia	4.3	4.6	6.0	7.4	8.6	7.4	7.7	6.9	8.0
Bulgaria	7.6	7.3	6.8	6.9	5.6	7.3	9.7	9.1	7.6
Latvia	6.8	5.5	6.4	8.9	8.0	6.6	6.3	5.2	6.0
Lithuania	6.9	4.3	3.5	4.3	5.6	5.3	5.0	5.0	3.7
Romania	2.9	2.4	2.1	2.5	3.1	3.2	3.5	3.8	3.2

Source: http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=yth_empl_050&lang=en

Alongside these three trends, temporary employment remained stable in Denmark and Germany. In Greece and Hungary, the change in temporary employment were more diffuse and no clear trend could not be identified (European Foundation for the Improvement of Living and Working Conditions, 2013).

4. CONCLUSIONS

For many companies the dynamics of the business is not linear, but it is characterized by an alternation of periods of growth and decline (such as increasing sales around Christmas, Easter, Valentine's Day, etc.), while this happens more often over the course of several months. Other companies in their early stages of a new product launch cannot make predictions regarding future sales volumes and as such they cannot accurately calculate the number of the staff required. Such situations make, at certain times, the need for additional personnel to be acute, forcing the companies concerned to find qualified staff in a short span of time.

Another case is the need to find temporary replacements for the personnel because of accidents, child care, absences, etc. Whatever the reasons, an efficient and flexible option is to ensure qualified personnel, through personnel leasing or official work through temporary employment agencies.

The flexibility offered by the temporary employment agency means not only the ability to provide staff for a limited period of time, but also the immediate availability and efficient management of large volumes of recruitment through the temporary employment business, while the effectiveness of labour through temporary employment agencies is given by the fact that it has qualified staff, preselected and 'authorized' by a personnel leasing agency; at the end of the service provided by the temporary employment agency, the client may opt to turn temps into its own employees.

The advantages of such forms of employment are not confined to companies that turn to temporary employment agencies in order to ensure their need for personnel, but they also refer to temporary staff, for whom this form of employment represents the possibility of finding a job, when their training or schedule does not allow them to carry out other types of activities (eg. fresh graduates for whom this form of employment may represent the possibility to find the first job and to acquire professional experience; students who want to increase their income, but they are available only during school holidays; people living in rural households, who are available only off-season, etc. For the unemployed, temporary employment is a way to keep connected to the labour market).

At present, opinions regarding the success of developing such forms of employment in a not-so-favorable economic environment, are divided:

- on one hand, there are some who say that the economic crisis does not encourage the development of temporary employment considering the financial difficulties that constrain companies to limit the additional costs relating to the fees to be paid to temporary employment agencies;
- on the other hand, there are opinions according to which the unpredictable economic environment is likely to opt for temporary employment agencies which provide staff in a very short time and, if temps have proved their worth during the period of service (which can be viewed by the client as a probation period, a period for learning and adapting to the organizational culture of the company), the client may turn them into its own employees.

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