

The profound precariousness of work through temporary work agency¹

Ph.D. student **Mihaela-Emilia MARICA**²

Abstract

The increase in the number of atypical work contracts in the field of industry relationships, as part of a major European trend towards gaining more flexibility in the labour market, is significant and cannot be overlooked in most member countries of the European Union. This finding is corroborated by the recent surveys conducted across Europe, that reveal the prevalence of these flexible ways of organizing work, over the archetypal template of the individual work contract. However, this range of atypical contractual arrangements and the great number of versions and subcategories they include, are describing a number of negative features that seem to characterize these new forms of employment. Since the field of atypical employment is complex and we cannot analyse the incidence of these negative effects for all the atypical methods of employment, in the following article we will limit ourselves to explore the pressing issues related to the system of temporary work through work agencies. As we shall see, all aspects of the salary field, of health and safety at work and the level of insecurity and instability of labour through temporary work agency reveals a strong character associated with this kind of precarious employment.

Keywords: *employment; temporary agency work; precarious work; atypical worker.*

JEL Classification: K31

1. Preliminary considerations

The increase in the number of atypical work contracts in the field of industry relationships, as part of a major European trend towards gaining more flexibility in the labour market, is significant and cannot be overlooked in most member countries of the European Union. This finding is corroborated by the recent surveys conducted across Europe, that reveal the prevalence of these flexible ways of organizing work, over the archetypal template of the individual work contract. A multitude of factors are actually involved in this increasingly predominant phenomenon of flexible work arrangements. From the major current

¹ This article was submitted to 6th International Conference “Perspectives of Business Law in the Third Millennium”, 25 -26 November 2016, the Bucharest University of Economic Studies, Bucharest, Romania.

² Mihaela-Emilia Marica - Doctoral School of Law, Bucharest University of Economic Studies, avocatmihaelamarica@yahoo.com.

issues generated by the interaction of economic, political, social³, cultural, technological and informational⁴ processes, to the globalist approach of world societies, all these have resulted in more diversified needs among employers, and implicitly in discarding the standard ways of working. In the same spirit, it has been found that the legislative factor and the favourable institutional framework of each member state stand in a direct, positive relation with the dissemination of non-standard work⁵. However, regardless of the circumstances where these new forms of work emerged, this range of atypical contractual arrangements⁶ and the great number of versions and subcategories they include⁷, are describing a number of negative features that seem to characterize these new forms of employment. Since the field of atypical employment is complex and we cannot analyse the incidence of these negative effects for all the atypical methods of employment, in the following article we will limit ourselves to explore the pressing issues related to the system of temporary work through work agencies. As we shall see, all aspects of the salary field, of health and safety at work and the level of insecurity and instability of labour through temporary work agency reveals a strong character associated with this kind of precarious employment.

³ The complexity of these factors is also due to the massive number of women joining the labour market, for whom these flexible contractual arrangements are the main tools allowing them to balance work and family life. (See Raluca Dimitriu, *Dreptul muncii-între disoluție și reinventare*, in „Studii și cercetări juridice”, year 2 (58), no. 2, Bucharest, April-June 2013, p. 206).

⁴ According to reports, one of the major effects produced by technological development is an impressive reduction of costs and the time necessary to store data and convey information, with notable consequences for work reorganization. (See Lubica Bajzikova, Helena Sajgalikova, Emil Wojcak, Michaela Polakova, *Are flexible Work Arrangements Attractive Enough for Knowledge-intensive Businesses?* in „Procedia-Social and Behavioral Sciences” 99 (2013) pp.771-783.

⁵ See Holland, Austria, Germany, Great Britain, which report increasingly frequent occurrences of these non-standard forms of work, accounted for by the existence of a legislation favourable to such atypical work arrangements. In contrast, a low number of such work agreements is found in Greece, Portugal, Denmark, Romania, Bulgaria where there is yet no activism directed towards the coordinated promoting of the non-standard work practices. Also, without going into details, the juridical system in Slovenia is peculiar compared to other European Union states, as its legislation discourages the proliferation of work forms other than the standard one. In other words, certain rights are guaranteed to employees in the same proportion, regardless of the terms of their employment (part-time or full-time) which from the employers' standpoint highly restricts the part-time alternatives, which are not fiscally and financially attractive. (For further details, see Allmendinger, J., Hipp, L., Stuth, S., *Atypical Employment in Europe 1996-2011*, Berlin, 2013, p. 10 and Barbara Kresal *Standard and non-standard work in Slovenia*, 2013, p.137, in *Standard work: an anachronism?*, Editors Jan Buelens, John Pearson, Intersentia Cambridge, 2013, pp. 117-145).

⁶ This includes the common, non-standard types of work well-known in most European Union states, respectively individual part-time employment contract, individual employment contract of limited duration, individual employment contract through temporary agency, individual employment contract for work at home.

⁷ As the list of possible arrangements is inexhaustible, we mention *job sharing*, *on-call employment/contracts (or zero-hours contracts)*, *mini-jobs* in Germany, *employee sharing*, *voucher-based work*, etc. (Eurofound Report, *Very atypical forms of work*, is available online at the address: <http://www.eurofound.europa.eu/publications/htmlfiles/ef10091.htm>. Sara Riso, research administrator, sri@eurofound.europa.eu, accessed on January 12, 2016).

2. Internal and international legal framework on labour through temporary work agency

2.1 International regulatory – Temporary Agency Work Directive 2008/104/CE

Amid the existence in international practice of major differences in legislative views on the use of this type of employment, establishing a collection of principles, of a legal framework integrated with the European Union framework for the category of temporary employees has been for a long time an essential need for the Member States, finally concretized by adopting the 2008/104/CE⁸ Directive on a European level.

2.1.1 The Directive Objectives

The reason for adopting this Directive, it was based on a series of objectives of a complex nature. Thereby, from the reduction of disparities regarding the temporary employee status recorded by the employment system of the Member States, establishing of labour market as equal treatment and non-discriminatory of temporary employees compared to ordinary employees in terms of employment and working conditions, and to minimize or even eliminate the prohibitions regarding the use of employees through temporary work agency are important elements established in the 2008/104/CE Directive and it also reveals the importance of adopting this atypical employment typology by legislator⁹.

2.1.2 Application domain

From this perspective, the application of this Directive disposition regarding the work through temporary work agent is limited to the category of workers that have an employment contract or are in a relation with a temporary work agency and are assigned to third party companies for temporary work under their surveillance and management¹⁰. In addition to this, the Directive applies to public or private companies that are temporary work agencies, or companies using

⁸ It was also found, that work through temporary work agencies belongs to the category of non-standard employment forms which optimally aligns to the needs of flexibility in the employment relationships, for both sides. On one side, it allows a contractual flexibility for the companies, on the other side it creates the possibility of balancing professional and family life. In the same category of reasons justifying the needs of a specific regulation for using temporary work, we can list the positive impact of working through temporary work agencies on the degree of workforce occupation and on new jobs creations.

⁹ More than that, the context speaks about the large number of temporary work agencies employees within European Union, reaching over 3 millions employees and still growing (See Philippa Watson, *EU Social and Employment Law*, Second Edition, 2014, Oxford University Press, p. 250).

¹⁰ Art. 1 par. (1) from 2008/104/CE Directive.

temporary employment engaged in economic activities, regardless being or not profit companies¹¹. Under this aspects, it is however provisioned - as a prerogative given to the member states - the possibility of a derogation, in a way that the norms of the Directive will not be applied to the contracts or to the employment relations that are part of a public program or programs that are subjects of public funding, professional development, professional employment integration or reconversion¹². Also, according to the concepts defined in the Directive, it is established that *temporary agency worker* “means a worker with a contract of employment or an employment relationship with a temporary-work agency with a view to being assigned to a user undertaking to work temporarily under its supervision and direction”¹³. Likewise, through the dispositions of the Directive regulating the work through temporary work agency, the meaning of “user undertaking” is clarified as “any natural or legal person for whom and under the supervision and direction of whom a temporary agency worker works temporarily”¹⁴.

2.1.3 The non-discrimination and equal treatment principle

It is essential to mention regarding the non-discrimination and equal treatment that “for the duration of their assignment at a user undertaking, at least those that would apply if they had been recruited directly by that undertaking to occupy the same job”¹⁵. It is important to highlight the fact that regarding the prevention of the abuses generated by excessively using successive temporary work assignments, in order to elude the Directive’s dispositions, the European Union legislator imperatively establish for the Member States to take appropriate measures according to national legislation and/or legal practices in order to prevent such abuses¹⁶. Also the equal treatment principle, as an essential principle governing work relationships of the temporary workers, assigned in the work market through the temporary work agencies, it is not perfect, nor ideal, or unabridged, under provisions that the Member States, together with social partners, may establish derogatory situations that can easily lead to discriminatory and differentiated treatment for this category of workers. In this context, the European Union legislator’s objective, to facilitate this flexible employment form, as having a positive impact on creating jobs¹⁷ and to ensure a basic protection to temporary workers, cannot be successfully achieved, while terse and unclear expression exists in some of the Directive’s provision, like the ones referring to the exceptions from equal treatment principle. If the first exception from this principle - the prerogative given to the Member States to establish a differentiated regulation for the level of

¹¹ Art. 1 par. (2) from 2008/104/CE Directive.

¹² Art. 1 par. (3) from 2008/104/CE Directive.

¹³ Art. 3 par. (1) c) from 2008/104/CE Directive.

¹⁴ Art. 3 par. (1) d) from 2008/104/CE Directive.

¹⁵ Art. 5 par. (1) from 2008/104/CE Directive.

¹⁶ See Luminița Dima, *Relații de muncă și industriale în Uniunea Europeană*, Ed. C.H Beck, 2012, p. 99.

¹⁷ See Luminița Dima, *op. cit.*, p. 97.

payment for the temporary workers, conditioned by the existence of an permanent employment contract with the temporary work agency that would allow the payment between work assignments¹⁸- can be easily generate discriminatory situation, not only regarding the status of the temporary workers compared to the other categories of workers, but also inside the temporary workers groups¹⁹, the second restriction of the equal treatment principle - referring to possibility for the Member States and their social partners to seal collective agreements that can establish a differentiated treatment for temporary workers, under work and employment conditions aspects, provisioning respecting the “overall protection” of the temporary workers²⁰ - is extremely equivocal under the aspect of wording, as the notion of “overall protection” it is not clearly defined and can be interpreted in different ways by the Member States²¹.

2.2. Domestically regulation

Domestically, important modifications operated on the 2011 Labour Code in Romania concerned the institution of temporary agency work. For the same reasons, namely lending more flexibility to the juridical work relationships, and harmonizing the domestic legislation with Directive no 2008/104/CE regarding temporary agency work, the Romanian legislator renounced the restrictions imposed on situations where temporary employment contracts can be concluded. Whereas prior to the modifications of Labour Code, introduced through Law 40/2011 to amend and supplement Law no 53/2003- Labour Code²², only a trading company authorized by the Ministry of Labour and Social Solidarity could be a temporary work agent, after the new regulations were implemented, the number of persons that can acquire this capacity has grown to include all legal persons, public institutions, non-governmental bodies etc.²³. Although we will not insist on the domestic legislative provisions on the individual employment contract through temporary work agencies, we stress the importance of recent amends to the Labour Code introduced through Law 12/2015²⁴ to modify and supplement Law no 53/2003. In the spirit of the European principle of equal treatment, in the case of temporary workers, the remuneration of temporary employees for each mission

¹⁸ Art. 5 par. (3) from 2008/104/CE Directive.

¹⁹ The situation in which the temporary work agency assigns for 2 similar jobs to temporary workers, but the payment conditions for them are different, one being remunerated according to rules established by the undertaking, and the other being remunerated based on regulations on 2008/104/CE Directive. (See Adrian-Claudiu Popoviciu, *Lucrătorul în dreptul european*, Ed. C. H Beck, 2014, pp. 295-296).

²⁰ Art. 5 par. (3) from 2008/104/CE Directive.

²¹ See Sophie Robin Olivier, *A french reading of Directive 2008/104 on Temporary Agency Work*, p. 401, in „European Labour Law Journal”, Vol. 2, nr. 4, 2011, Ed. Intersentia, pp. 398-405.

²² Law no 53/2003 – Labour Code, was republished in the Official Gazette/Monitorul Oficial no 345 of May 18, 2011.

²³ See Adrian-Claudiu Popoviciu, *op. cit.*, p. 298.

²⁴ Published in the Official Gazette/ Monitorul Oficial no 52 of January 22, 2015.

„cannot be lower than that granted to the user's employee, doing the same work or a similar one to that of the temporary employee”²⁵. We welcome this amend to the Romanian Labour Code, which was to be expected considering the provisions of art. 5 paragraph (1) in Directive no 2008/104/CE consecrating the principle of equal treatment and barring discrimination from the relationship between temporary workers and user's workers, provisions which had previously not been applied in our law system²⁶.

We appreciate the efforts made by the Romanian legislator to increase the degree of flexibility for this atypical employment form, so that the labour market would become more interested in temporary work, since Romania is among the countries that use this kind of employment the least²⁷.

3. The precarious character of work through temporary work agency

In the specialty writings, the problem of work through temporary work agencies is treated in the context of debates focused on the profound unreliable character of this atypical employment form. The unreliability is generally analysed under several aspects: under the aspect of the low level of payments and benefits for temporary workers and remuneration discrepancies between them and the category of full-time employees; under the aspect of problems generated by work health and work safety, more precisely of the precarious work conditions and high risk of work accidents; under the aspect of insecurity and instability that characterizes this type of employment. In the same context, the studies focus on the implication of this type of temporary work on the social security and protection systems, that deviate significantly from the standard, usual employment model.

3.1 Precariousness under the aspect of remuneration

Maybe the most important problem affecting temporary workers is the low level of remuneration and benefits received by this type of employees compared to those received by the full-time employees. A possible cause of this difference between temporary workers and full-time employees could be the existence of a profound asymmetry between these two categories of employees, regarding the access of temporary workers to training and professional qualification programs. The studies shows that while 35% of the full-time employees took part of at least one qualification program in the last 12 months, the participation of the temporary

²⁵ Art. 92 paragraph (3) in the current Labour Code.

²⁶ Art. 96 paragraph (2) in the Labour Code (prior to its amending by Law no 12/2015 to modify and supplement Law no 53/2003): „The salary received by the temporary worker for each mission is established by direct negotiation with the temporary work agent, and cannot be lower than the minimum gross wage guaranteed in the country”.

²⁷ Denisa-Oana Pătraşcu, *Munca prin agent de muncă temporară potrivit modificării Codului Muncii prin Legea nr. 40/2011*, in „Revista Română de Dreptul Muncii”, no 4/2011, p. 32.

workers was only 12%²⁸. The progresses achieved at the European level by the ratification of the Directive regarding the work through temporary work agencies and by establishing a common body of minimal standards applicable to temporary work area, imposed a series of specific approach in the specialty literature. More precisely, in the context of the implementation in the legal systems inside European Union of the *non-discrimination and equal treatment principle* regarding the remuneration of the temporary workers, a special relevance has - as highlighted by some authors²⁹ - the impact of applying this principle on the level of professional training and qualification benefits for the temporary workers. It was ascertain that Member States that defined the non-discrimination between the temporary workers and full-time employees, as well as the equal treatment in the work conditions and remunerations, as fundamental principles, had a lower level of discrimination regarding the income. In exchange, within these countries, there is a growing tendency to discriminate in the area of professional training and qualification provided by the employer. The explanation is bound to higher costs for temporary workers on working markets, which from practical perspective, makes the temporary work more expensive for employers compared to full-time employment. This type of costs put pressure on employers, to identify other ways to cut expenses with temporary workers, in other to compensate the financial effort for salaries. By doing this, the companies manage to decrease the level of remuneration discrimination and to put themselves in line with European regulations, but on the other side they increase the level of professional training and qualification discrimination. No doubt this is a plausible hypothesis, as long as applying the equal treatment principle to access to professional training is more difficult to control. Moreover, remuneration disparities has implication on gender aspect of the temporary work relationships. For example, in Germany, male temporary workers receive a salary averagely smaller by 36 percent than full-time employees, while the female temporary workers salary is averagely 29 percent smaller. The situation in Great Britain is also relevant, the salary difference for male temporary workers compared to full-time employees is between 18%-20%, while the proportion of the female workers engaged in such a contractual type deviating from the standard employment model is between 4% -7%.³⁰

The financial difficulties generated, on the one hand, by the short contracting period and, on the other hand, by the lack of remuneration between two missions, adds to the insecurity affecting the group of temporary workers and often takes on social implications, having a negative impact on the intention to start a

²⁸ See Werner Nienhüser and Wenzel Matiaske, *Effects of the principle of non-discrimination on temporary agency work: compensation and working conditions of temporary agency workers in 15 European countries*, p. 67, in „Industrial Relations Journal”, 2006, Vol. 37(1), pp. 64-77.

²⁹ See Werner Nienhüser and Wenzel Matiaske, *op. cit.*, pp. 75-76.

³⁰ Also the income of the temporary workers is more disproportionate compared to the income earned as a standard contracts in majority of the EU Member States. For example, in Spain, temporary workers remuneration is 10%-15% lower that full-time employees, while in Austria this difference is 5%-30%, and in UK is 32%. (See Werner Nienhüser and Wenzel Matiaske *op. cit.*, p. 66-67).

family or buy a house³¹. In this context, it is very important to note the major problem generated by the option of those employment agencies which provide workers for this sector of the industry, to work in the underground/informal part of economy, becoming involved in the system of tax evasion by failing to pay taxes and other contributions that are due to the state budget. From this standpoint, employers' refusal to forward salary taxes to public authorities has a direct, negative impact on the compensations for unemployment or illness, as the staff who work for such businesses are not entitled to these benefit schemes. In practice, there is also the unfortunate situation where a large number of migrant workers, ignorant of the law system of the host country, are unable to claim their rights in the event of unemployment or illness. Despite the apparent legality – the companies they work for do pay taxes – this category of workers belong to the informal market of their industry when they become unemployed, although legally they are entitled to unemployment compensations³².

3.2 *Precarity in health and safety at work*

Although the international provisions governing employment through temporary work agencies, stipulates the equal treatment and rights for temporary workers, in comparison to the staff hired directly by user-companies, with respect to the employment and working conditions³³, these principles are not successfully put into practice. The difficulty lies in the triangular nature of the work relationship, involving three parties: on the one hand, the worker's relationship with the temporary work agency, on the other hand the contractual relationship between the user company and the temporary work agency. Given the ambiguity in defining responsibilities for the safety and health of temporary workers, incumbent on the temporary work agency and the user company, respectively, the issue of health and safety at work for this category of workers is one of the greatest challenges in matters of industrial relationships on the labour market; from the standpoint of legislation, this area needs to be strictly regulated. Thus, temporary work in the construction industry is associated to higher risks and an increased incidence of occupational accidents and physical damage. A direct connection has been perceived between the high number of occupational accidents and diseases, and the temporary, unstable nature of the job, and this type of employment³⁴.

³¹ See Lena Hipp, Janine Bernhardt, Jutta Allmendinger, *Institutions and the prevalence of non standard employment*, p. 356, in „Socio-Economic Review”, Vol. 13, no. 2, 2015, pp. 351-377.

³² A very widespread situation in the Norwegian construction companies. (See Anne Mette Ødegard, Øyvind Berge, Kristin Alsos, *A case study of temporary work agencies in the Norwegian construction sector: a growing informal market beyond regulation?*, p. 466, in „European Review of Labour and Research”, 2012, vol. 18(4), pp. 461- 470)

³³ Art. 2.1 in *Directive 91/383/CE de completare a măsurilor privind promovarea îmbunătățirii securității și sănătății în muncă a lucrătorilor care au un raport de muncă pe durată determinată sau un raport de muncă temporară*.

³⁴ For instance in 2012, the number of work accidents in the Korean construction industry reached 23,349 persons, that is 25.3% of the total industry. Almost 90% of the accidents reported, affected

Causes are not yet clearly ascertained, but one possible explanation for the high percentage of occupational accidents in the sphere of temporary employment could be found in the insufficient education about safety at the workplace, as well as the lack of opportunities for briefing these categories of workers.

3.3 Precarity entailed by the insecurity and instability of employment through temporary work agencies

The high degree of instability and economic insecurity, characteristic to the sphere of temporary employment, is one of the fundamental indices of precarity, associated to this atypical form of work organization and ascribed to the short duration of most missions. Specialized literature has identified a direct connection between the skill levels of temporary workers, and the duration of temporary missions entrusted to them: less skilled temporary workers recruited through agencies have received shorter missions than the better-skilled ones³⁵.

Also, the „temporary” status of these workers has entailed major difficulties in their establishing friendly relationships with co-workers, and has detracted from their acknowledgement and the respect they receive, in contrast with the regular employees of user-companies. Also, this status is a source of frustration and insecurity in their relationship with the work team, as well as their ability to join a trade union. Not least, the structure of temporary employment and the „itinerant” nature of their workplace, are obstacles faced by agency workers, hindering their fulfilment and their participation in collective negotiations and actions³⁶. A relevant aspect concerns the financial difficulties met by this category of workers. Despite the general perception that this type of employment might provide an opportunity or be a step towards prospective long-term employment, in fact insatisfaction with the temporary character of employment is widespread among these workers³⁷. It was found that a change from temporary work to

temporary workers on missions shorter than 6 months. (See Hee-Chang Seo, Yoon-Sun Lee, Jae-Jun Kim, Nam-Yong Jee, *Analyzing safety behaviors of temporary construction workers using structural equation modelling*, in „Safety Science”, no. 77, pp. 160-168, Ed. Elsevier, 2015, p. 160).

³⁵ The high level of instability and insecurity associated to temporary work agencies can be also assessed through the high risk of unemployment, which is 5 times higher in the case of workers recruited through agencies than with regular workers; to most of them, these temporary jobs fail to ensure transition to a steady job. (See Thorsten Schulten, Karin Schulze Buschoff *Sector-level Strategies against Precarious Employment in Germany: Evidence from Construction, Commercial Cleaning, Hospitals and Temporary Agency Work*, in Diskussionspapier, nr. 2/2015, www.econstor.eu, pp. 44-45).

³⁶ The general perception of workers is that user-companies resort to workers through temporary work agencies, precisely in order to elude the stipulations of collective agreements concerning the minimum wages, which in practice often makes it possible to disregard these collective agreements for temporary work agencies and the respective users. (See Elsa Underhill *Should host employers have greater responsibility for temporary agency workers employments rights?*, p. 346, in „Asia Pacific Journal of Human Resources” 48(3), 2010, pp. 338-355).

³⁷ Studies have revealed that most temporary workers have expressed their preference for more stable employment. (See Brian Burgoon, Fabian Dekker, *Flexible employment, economic*

permanent employment would be conditioned by complex factors such as: companies demand to make the temporary workers' activity permanent from the contractual point of view; from employees perspective, wishing or not to accept permanent contracts; the strong influence of economical climate and variations in the businesses³⁸. Under the aspect of the first category of aspect, we highlight the importance of costs with hiring and firing procedures, on which depends, on great length, the company option to use temporary workers. Particularly it was specified the fact that the rigid legislation regarding hiring and firing systems it represents an impediment for the companies to use permanent employees. As an example, the unsatisfying and non-existing legislation regarding probing time, in case of full-time employees, based on individual employment contract, in certain situation justifies the companies preferences for temporary workers on expense of the full-time employees. On the same note, the relative short legally probation period for permanent employment contract, is in most of the cases insufficient for a correct evaluation of the satisfaction level for the job. This is why it is more efficient for the companies to use workforce through temporary contracts in a first phase, then, if the temporary workers prove to be competent on their positions, to hire them as permanent employee. Moreover this hiring practices have positive major implications on reducing financial and timing costs associated to the personal recruiting process which in this situation are in temporary work agencies work responsibilities³⁹. Interestingly, when offered to the employees, was seen a positive connection between the transfer from a temporary work contract, to a permanent work contract, and the employees behaviour after the hiring. Thus, if this employment type is used by companies as a form to test the professional abilities, and the chances for this temporary positions to become permanent are high, increase the level of implication and motivation for the employees that shows in this purpose a higher disponibility of working time and effort. Some studies in the specialty literature support these affirmations⁴⁰, showing that "the companies with the highest rate of conversion between temporary contracts and permanent contracts are the most productive, suggesting that the employees from the temporary work agency show a higher productivity level". Finally, the offer and the demand of temporary work market shapes the economical climate. Depending on the stability or the instability of the business environment, can be establish a relationship between the economic status and the possibility of a conversion from temporary employment to permanent employment. More precisely, the absence or the diminution of economic perspectives invokes the decrease of opportunities on the work force market, determining the employees to accept more easily temporary

insecurity and social policy preferences in Europe, p. 129, in „Journal of European Social Policy”, 2010, vol. 20, nr. 2, pp. 126-141).

³⁸ See Puline Givord și Lionel Wilner *When does the stepping-stone work? Fixed-term contracts versus Temporary Agency Work in changing economic conditions*, p. 789, in „Journal of applied econometrics”, 2015, Vol. 30 (5), p. 787(19)-805.

³⁹ See Puline Givord și Lionel Wilner, *op. cit.*, p. 789.

⁴⁰ See Puline Givord și Lionel Wilner, *op. cit.*, p. 790.

work contracts. This means more than waiting for an improvement of economical environment that will provide permanent jobs. Also, from the company perspective, it was appreciated that their wish to transform temporary work jobs in permanent work contracts is strongly connected to periods of economic growth⁴¹.

4. Conclusions

Which are therefore, the situation where we cannot invoke the inherent unreliable characteristic associated to this type of employment, differing from the standard system? Which is the utility of this flexible form of employment in the area of work relationships and when does it occur? If we consider the general perception that this new form of employment represents “one step away from permanent employment”, in our opinion this is only apparent. The unoptimistic results show that in average only one in 20 temporary workers⁴², assigned by temporary working agencies to an undertaking company succeed, after the assignment ends, to transfer to a permanent job. How will the European legislator and eventually the Member States to eliminate or to diminish as much as possible the high level of unreliability and the multitude of risks for the temporary workers? Of course, this is a question to which in the first place, the vulnerable part in this equation, the worker is waiting an pertinent and favourable answer. Moreover, we can see the utility theory of this temporary work in work markets is relativized by the fact that often, the workers are not free to accept this employment type, on a voluntary base, but as a consequences of constraint of any type. Therefore, workers contractual liberty is limited, the unreliability and vulnerability levels grows among them⁴³.

Bibliography

1. Allmendinger, J., Hipp, L., Stuth, S. *Atypical Employment in Europe 1996-2011*, Berlin, 2013;
2. Bajzikova, Lubica; Sajgalikova, Helena; Wojcak, Emil; Polakova, Michaela, *Are flexible Work Arrangements Attractive Enough for Knowledge-intensive Bussinesses?* in „Procedia-Social and Behavioral Sciences” 99 (2013);
3. Burgoon, Brian; Dekker, Fabian, *Flexible employment, economic insecurity and social policy preferences in Europe*, in „Journal of European Social Policy”, vol. 20, no. 2, 2010;
4. Delfino, Massimiliano, *Interpretation and enforcement questions in the EU Temporary Agency Work Regulation - An Italian point of view*, in „European Labour Law Journal”, vol. 2, nr. 3, ed. Intersentia, 2011;
5. Dima, Luminița, *Relații de muncă și industriale în Uniunea Europeană*, Ed. C.H Beck, 2012;

⁴¹ See Puline Givord and Lionel Wilner *op. cit.*, p. 790.

⁴² See Anne Mette Ødegard, Øyvind Berge, Kristin Alsos, *op. cit.*, p 466.

⁴³ See Raluca Dimitriu, *op. cit.*, pp. 199-220.

6. Dimitriu, Raluca, *Dreptul muncii - între disoluție și reinventare*, in „Studii și cercetări juridice”, year 2 (58), no. 2, Bucharest, April-June 2013;
7. Givord, Puline și Wilner, Lionel, *When does the stepping-stone work? Fixed-term contracts versus Temporary Agency Work in changing economic conditions*, in „Journal of applied econometrics”, Vol. 30 (5), 2015;
8. Hipp, Lena; Bernhardt, Janine; Allmendinger, Jutta, *Institutions and the prevalence of non standard employment*, in „Socio-Economic Review”, Vol. 13, no. 2, 2015;
9. Kresal, Barbara, *Standard and non-standard work in Slovenia*, in *Standard work: an anachronism?*, Editors Jan Buelens, John Pearson, Ed. Intersentia Cambridge, 2013;
10. Nienhüser, Werner and Matiaske, Wenzel, *Effects of the principle of non-discrimination on temporary agency work: compensation and working conditions of temporary agency workers in 15 European countries*, in „Industrial Relations Journal”, Vol. 37(1), 2006;
11. Ødegard, Anne Mette; Berge, Øyvind; Alsos, Kristin, *A case study of temporary work agencies in the Norwegian construction sector: a growing informal market beyond regulation?*, in „European Review of Labour and Research”, vol. 18(4), 2012;
12. Olivier, Sophie Robin, *A french reading of Directive 2008/104 on Temporary Agency Work*, in „European Labour Law Journal”, Vol. 2, no. 4, Ed. Intersentia, 2011;
13. Pătrașcu, Denisa-Oana, *Munca prin agent de muncă temporară potrivit modificării Codului Muncii prin Legea nr. 40/2011*, in „Revista Română de Dreptul Muncii” no. 4/2011;
14. Popoviciu, Adrian-Claudiu, *Lucrătorul în dreptul european*, Ed. C. H Beck, 2014;
15. Schulten, Thorsten; Schulze Buschoff, Karin, *Sector-level Strategies against Precarious Employment in Germany: Evidence from Construction, Commercial Cleaning, Hospitals and Temporary Agency Work*, in „Diskussionspapier”, no. 2/2015, www.econstor.eu;
16. Seo, Hee-Chang; Lee, Yoon-Sun; Kim, Jae-Jun; Jee, Nam-Yong, *Analyzing safety behaviors of temporary construction workers using structural equation modeling* in „Safety Science”, no. 77, Ed. Elsevier, 2015;
17. Underhill, Elsa, *Should host employers have greater responsibility for temporary agency workers employments rights?*, in „Asia Pacific Journal of Human Resources” 48(3), 2010;
18. Watson, Philippa, *EU Social and Employment Law*, Second Edition, Oxford University Press, 2014.
19. Eurofound Report, *Very atypical forms of work (Forme de muncă foarte atipice)*, available online at: <http://www.eurofound.europa.eu/publications/htmlfiles/ef10091.htm>, accessed on 12 January 2016;
20. http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1460031033594&uri=CELEX:32008L_0104, accessed on 7.04.2016;
21. <http://www.fair-labour-mobility.eu/ro/materiale/>, accessed on 30.08.2016.