Evaluation of the Part-Time and Fixed-Term Work Directives

Conference on EU Labour Law, 21 October 2013, Brussels
Agenda

- Aims of the Directives
- Level of change introduced by the Directives
- Measures to prevent abusive use of fixed-term contracts
- Employer awareness and costs associated with the Directives
- Trends in fixed-term work
- Fixed-term work among new labour market entrants
- Summary of findings and issues remaining
Original goals of the framework agreements and Directives

Part-Time Work Directive

- a) removal of discrimination;
- b) improve quality of part-time;
- c) promote voluntary part-time work

Fixed-Term Work Directive

- a) removal of discrimination;
- b) improve quality of fixed-term work;
- c) prevent abuse arising from the use of successive fixed-term employment contracts- level of awareness
Overall, material changes to existing legislation have been more limited in relation to the transposition of the Part-time Work Directive than in relation to Fixed-Term Work Directive.

**Part-Time Work Directive**
- **Moderate to major changes (11)**
  - DE, DK, EE, GR, IE, IT, LT, MT, PT, RO, UK
- **Moderate changes (7)**
  - BE, BG, ES, FI, HU, SE, SK
- **Minor to no changes (9)**
  - AT, CY, CZ, FR, LU, LV, NL, PL, SK

Although many countries provided for equal treatment prior to the directive (e.g., gender equality provisions), the implementation of the Directive brought about **legal clarity** and in some cases **expanded equal treatment** to benefits beyond pay.

**Fixed-Term Work Directive**
- **Moderate to major changes (15)**
  - BG, BE, CY, CZ, DE, DK, EE, GR, HU, IE, LT, PL, PT, RO, UK
- **Moderate changes (11)**
  - AT, ES, FI, FR, LV, MT, NL, SE, SI, SK
- **Minor to no changes (2)**
  - IT, LU

Most countries had to introduce **new provisions** or amended existing national legislation in order to transpose correctly the Fixed-Term Work Directive, in particular the **principle of non-discrimination** (Clause 4) and **measures to prevent abuse** (Clause 5).
The transposition of Part-Time and Fixed-Term Work Directives shows a strong preference for minimum standards

**Part-Time Work Directive**

…the minimum standards only exceeded by a few countries in relation to the right to move to part-time work (unless significant operational reasons prohibit it) and in some countries, the right to move to full time work.

**Fixed-Term Work Directive**

…the minimum standards exceeded mainly in relation to measures enacted to prevent the abusive use of fixed-term contracts (e.g., BG, CY, DE, EE, ES, FI, HU, FR, LT, SK, SE require objective reasons for a first fixed-term contract, not only successive fixed-term contracts).
The national measures implemented to prevent the abusive use of (successive) fixed-term contracts vary significantly…

...Objective reasons for first time or successive fixed-term contracts: 14 countries. In the other countries, objective reasons are either not required or not stipulated in law.

...Maximum duration of fixed-term employment with the same employer range between 18 months and 5 years, but are mostly in the region of two to three years. AT, DE, DK, FI and PL do not cap the duration of fixed-term employment.

...Several countries have introduced limitations on the number of renewals, usually between 1-3 renewals (up to the maximum renewal period for fixed-term employment, where in place).

...the period in-between two contracts considered ‘successive’ can vary significantly among countries – from not more than 30 consecutive days to 3 years.
Self-reported levels of awareness about the legal provisions are generally very high

**Provisions on part-time work**

85% of surveyed national social partners were aware of the legal provisions related to part-time work, and 12% were only partially aware. Only 2 NSPs (2%) were unaware of the relevant legal provisions.

75% of the surveyed employers were aware of the stated legal provisions regarding part-time work; 21% of enterprises were partially aware of the legal provision. Only 3% were unaware of the legal provision regarding part-time work.

**Provisions on fixed-term work**

81% of surveyed national social partners were aware of the fixed-term legislation, with only 5% unaware of this legislation. The remaining 12% were partially aware.

79% of the surveyed employers were aware of the legal provisions regarding fixed-term work; 17% were partially aware of the legal provisions. Only 3% were not aware of the legislation.
Impacts on employers

Only 30% of enterprises stated the legal provisions on part-time work had brought about additional financial and/or administrative costs. The administrative costs comprise the revision of employment contracts (53 responses), followed by changes in HR processes and procedures (50 responses) and internal staff (38 responses). Other costs: hiring replacement staff, communication & awareness.

- Facilitating transition of workers from full-time to part-time work and vice versa, at all levels
- Ensuring equal treatment between part-time and full-time workers
- Providing information about available vacancies
- Facilitating access to training
- Providing information about part-time work to representative bodies
The vast majority of the surveyed enterprises reported that they did not have to take on new staff in order to deal with the additional administrative activities associated with the part-time regulations.

Of the enterprises which answered that they did not hire additional staff (63 in total), 90% stated that the responsibilities were undertaken by staff as part of their existing duties, possibly preventing them from completing other duties.

Time taken to complete the additional administrative activities in your company in annual full-time equivalent (FTE)

Of those enterprises which said that they had incurred additional costs, 65% estimated that the additional administrative burden was equivalent to less than 1 FTE.

For those employers who hired extra staff...
Similarly, around a third of enterprises (29%) stated that the legal provisions on fixed-term work arising from the Directive resulted in additional financial or administrative costs.

For those who incurred additional administrative costs (on average equivalent to 1 FTE), the following legal provisions raised administrative costs...

- Complying with restrictions on the max. duration of successive fixed-term contracts
- Complying with restrictions to the number of renewals of fixed-term employment contracts
- Providing objective reasons for the renewal of such contracts
- Providing information about fixed-term work to representative bodies
- Informing fixed-term workers of available vacancies for permanent positions
The Directives constitute one factor from a complex range of socio-economic and legal factors influencing part-time and fixed-term work in the EU.

### Part-time and Fixed-Term Work Directives

Various statistical analyses have been undertaken (accounting for business cycle) with inconclusive results i.e. the pace of change in part-time/fixed-term employment did not change significantly as an effect of the national transposition of the Directives. Business cycle has proved to have a significantly more important impact.

### Other determinants

- Business cycles
- Structural changes
- Household factors
- Individual factors

### OECD 2010 study

- The equal-treatment laws had an impact on the quality of part-time jobs in terms of training and security only in countries with low unemployment.

### Different econometric models

- Different econometric models have been used building upon Buddelmeyer’s model (2008), using feasible generalised least squares (FGLS). The models were populated with data from between 1992 and 2011 for 21 EU Member States and 2 EEA countries (Iceland, Norway).
The following issues/trends related to fixed-term work have been identified...

The trend in the fixed-term work in the EU has been **fairly flat**, displaying only a minor increase of less than a percentage point between 2000 and 2010. It should, however, be noted that at least six countries witnessed an increase in fixed-term employment between 2000 and 2007, only to see a significant decline by 2010, largely as a result of the recession.
Other important issues/trends related to fixed-term work have been identified on the ground...

... the proportion of involuntary fixed-term employment remains very high in the EU - 60% in 2010. No gender gap: 59% of men and 62% of women in the EU reporting that ‘they could not find a permanent job’ in 2010.

... Fixed-term work is most prevalent amongst elementary occupations (21%) (compared with 10% of professionals); and amongst the low skilled (15%) as compared to 10% of workers with tertiary education.

... the pro rata wage gap between fixed-term and permanent workers are estimated between 14% and 17% (EC 2010, 2011). Our study showed wage gaps ranging between 13-46% for men (when controlling for sector, occupation, age and education). For women the picture was more mixed.

...fixed-term workers are less likely to receive non cash benefits when compared to permanent employees, with fixed-term workers 20% less likely to receive non cash benefits. Fixed-term workers are also slightly less likely to have access to flexible working conditions.

...transition rates to permanent employment remain modest, although they can differ substantially depending on the unit of time used. On a yearly basis, only between 25% and 35% of fixed-term workers on average became permanent workers. When a longer period of three consecutive years is taken into account, out of those who were in fixed-term employment at a given point in time during the period, 37% shift to permanent employment, 60% remain in the same fixed-term job, and 3% remain in fixed-term employment but they change jobs.
Fixed-term work amongst younger workers in Europe has risen from 20.0% in 2000 to 22.8% in 2010. In 2007, it was at its highest with 28.0% of younger workers in fixed-term contracts. In 2010, 24.4% of young female workers compared to 21.4% of their male counterparts were on a fixed-term contract.
Differential impacts on worker groups: ’new labour market entrants’

There are significant differences between the EU countries in relation to rates of fixed-term working amongst new labour market entrants. Use of fixed-term contracts amongst labour market entrants is very high in Spain and Portugal over 80%) and relatively modest in Romania and Lithuania (around 10%), with the EU average just under 50%.

Proxy for new entrants: labour market status 1 year ago was "Pupil, student, further training, unpaid work experience"; and is between 15 and 29 years, It excludes persons undergoing a period of training (apprenticeship etc.) and persons employed by temporary work agencies; excluding MT; IE 2010, BG, DE, SI 2007, and AT, BG, DE, IE, LT, LV, NL, PL, SK 2010
EU-SILC data 2008/2009 show that new labour market entrants, particularly those aged 17-21, are the least likely to make the transition from fixed-term to permanent employment.
Have the goals of the Directives been achieved?

Must distinguish between legal implementation, enforcement and labour market impact

Main concerns are over lack of progress on improvement of quality and some remaining aspects of discrimination (particularly in access to non-cash benefits)
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