

**Posting of Temporary Agency Workers in Europe
Country Fact Sheet (Draft Template)**

Country: Poland

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National Regulation and provisions applicable to posted temporary agency workers

I. Employment and Working Conditions for posted temporary agency workers coming into your country

If any of this information is not available or unclear in current legislation please indicate in the box. If you know of practical examples please give details below.

Element of national regulation	Qualitative information on your country
Definition of a posted temporary agency worker according to national legislation and collective labour agreements in the TAW sector.	<i>There is no explicit definition of "posted agency worker" in the Polish national legislation. However, in the article 2.2. Act on employment of temporary workers of 9th July 2003 (Journal of Law no 166 item 1608 with amendments) the following definition is provided: "temporary worker - a worker employed by temporary work agency for the sole purpose of performing temporary work for and under the direction of the user employer. There is also a definition of temporary work: work performed for the user employer, for a period not longer than that indicated in the Act, the tasks:</i> <ul style="list-style-type: none"> <i>a) of seasonal, periodical or ad hoc character</i> <i>b) whose timely performance by staff employed by the user employer would not be possible or</i> <i>c) the performance of which is the responsibility of the absent employee's employer.</i>



<p>Does a worker posted into your country on a temporary basis have the same legal status as a ordinary temporary worker?</p>	<p><i>Posted worker is, according to the provisions of the Labour Code (LC) is a worker who was posted to perform working the territory of Republic of Poland for a fixed term by the employer established in a European Union Member State. So the posted temporary worker would be one who is employed by temporary work agency in another UE MS for the sole purpose of performing temporary work for and under the direction of the user employer in Poland.</i></p> <p>The terms of employment of workers posted, from an EU Member State, to work in the territory of Poland are specified by provisions laid down in articles 67¹ and 67² of the Act of 26 June 1974 Labour Code (Journal of Laws of 1998, No. 21, item 94 with amendments), according to which the employer ensures that the employee has such terms and conditions of employment which are not less advantageous than those arising from the Labour Code and other provisions governing employee rights and duties (article 67¹ § 2 LC).</p>
<p>Relevant and applicable provisions on equal treatment & equal pay for temporary agency workers.</p> <p>Do these apply to posted temporary agency workers?</p>	<p><i>According to the article 15.1 of the Act on employment of temporary workers a temporary employee in the period of work for a user employer can not be treated less favorably concerning working conditions and other terms of employment than employees employed directly by the user employer at the same or similar job. The article 16 stipulates that a temporary worker whose right to equal treatment was infringed by the user employer is entitled to claim from the temporary employment agency compensation in the amount specified in the provisions of the Labour Code relating to compensation payable to the worker from his employer for breach of the principle of equal treatment in employment (not less than monthly minimum wage) .</i></p> <p><i>Then the temporary employment agency has a right to seek reimbursement from the employer's equivalent of compensation paid to the temporary employee.</i></p> <p><i>In case of posted workers employer must the minimum terms and conditions of employment which should be observed while engaging workers posted to work in the territory of Poland, refer to:</i></p> <ol style="list-style-type: none"> 1) working time standards and schedules, daily and weekly rest periods, 2) duration of annual leave, 3) minimum remuneration specified under separate regulations, 4) overtime remuneration,



	<p>5) occupational safety and health, 6) parenthood-related rights of employees, 7) employment of juveniles and performance of work or other paid activities by a child, 8) ban on discrimination in employment, 9) performance of work in compliance with regulations on the employment of temporary workers.</p>
<p>Maximum work periods per day and per week for temporary agency workers.</p> <p>Is night work permitted in this sector? If so how many hours are allowed?</p>	<p>Work periods for temporary and “regular” workers are the same. According to the Article 129.§1. working time shall not exceed eight hours a day and on the average 40 hours in an average five days’ working week within the adopted reference period not exceeding four months.</p> <p>Night work is permitted. For those workers rest periods must be observed, just as for other groups of workers. Night work cannot be performed by young workers (between 16 and 18 years of age), pregnant workers and without consent of a worker who takes care of a child under 4. Each worker is entitled to a wage supplement for each hour of night work (20% of minimum remuneration)</p>
<p>Minimum rest periods per day and per week for temporary agency workers.</p>	<p>The same as for “regular” workers. 11 hours a day and 35 hours a week. In specific situations (e.g. shift work) weekly rest period must not be shorter than 24 hours)</p>
<p>Applicable minimum rates of pay hourly, weekly or monthly. Is this decided by a collective agreement or law? How is it enforced?</p>	<p>In Poland there is one monthly minimum rate of pay. The mechanism to establish the minimum rate of pay is described in the Act on minimum rate of pay of 10th October 2002 (Journal of Laws no. 200, item 1679). The rate is announced by the Minister. In 2010 it is 1317 PLN ≈ 320 EUR. A higher rate can be established in a remuneration regulation or a collective agreement. The Labour Inspection is entitled to check if due wages are paid to workers. They cannot be in any terms lower than the minimum rate of pay. Non payment of wages constitutes a minor offence or (if a court has passed an adequate sentence) an offence.</p> <p>It will also apply to temporary workers. However the principle of equal treatment must be observed.</p>
<p>Applicable wage supplements, sick pay, social security, overtime and night work rates & allowances for temporary agency workers.</p>	<p>These are the same for temporary and “regular workers”. Sick pay is normally 80% of wages (100% for pregnant workers and in case of accident at work or occupational disease), social security contributions are borne by the employer (so in case of posted temporary worker it will be the employer from another state) night work supplement is 20% of minimum wage for each hour of night work. Overtime work supplement is 50% of an hourly rate and 100% for work on Sundays, public holidays, night work,</p>



	work on a day off instead of Sunday or holiday and work over weekly maximum working time.
Applicable provisions and legislations on health & safety at work. Whose responsibility is it to ensure these provisions/laws are enforced (user company or temporary agency)? Which organization is responsible for the health and safety of the workers?	<p>The same as for “regular” workers: LC, Regulation of the Minister of Work and Social Policy on general provisions on health and safety at work of 26th September 1997 (J.L. of 2003, no. 169, item 1650) and other. Article 14.2 of the act on employment of temporary workers stipulates that the user employer is responsible for healthy and hygienic conditions of work of temporary workers.</p> <p>The user employer provides a temporary employee clothing and footwear and personal protective equipment, provides drinks and meals prophylactic, carried out training on occupational health and safety, determine the circumstances and causes of accidents at work, carry out risk assessment and inform about the risk. The temporary work agency is required to approve the accident protocol.</p>
Minimum paid annual holiday (no. of days, rates) temporary agency workers are entitled to.	<p>This issue is regulated in the article 17 of the act on employment of temporary workers. Such worker is entitled to 2 days of paid holidays for each month of work for a user employer.</p> <p>Remuneration for one day of annual leave or a cash equivalent for one day of leave is calculated by dividing the wages received by a temporary employee during the period of temporary work by the number of working days for which remuneration (or cash equivalent) is vested.</p>
Main, general provisions of collective labour agreements concluded in the TAW sector that are relevant to posted temporary agency workers	None such agreement has been concluded so far.
Specific provisions on posted temporary agency workers in the collective labour agreements in the TAW sector	None such agreement has been concluded so far.



II. Conditions for temporary work agencies to post a temporary agency worker in your country

Element of national regulation	Qualitative information on your country
Requirement to obtain a license	<p>According to the act on promotion of employment and labour market institutions, a person who wishes to establish the agency may not: have any overdue tax, or contributions to social security contributions, health insurance and the Labour Fund and the Guaranteed Employee Benefits Fund, be punished for an offence referred to in Article. 121; be subject, for which liquidation has been opened or bankruptcy declared.</p> <p>A temporary work agency must also have a local office for the to ensure the confidentiality of the talks; be equipped with basic technical equipment which allows for its operation; provide people with at least secondary education.</p>
Mandatory Declarations	<p>According to the act on promotion of employment and labour market institutions an employment agency is obliged to provide information about its activities, in containing particular the number of:</p> <ol style="list-style-type: none"> 1) persons who have undertaken to work through employment agencies by groups of elementary occupations in accordance with current classification of professions and specialties for the labour market, including the countries of employment; 2) employers and recipients of services, personnel consultancy and guidance; 3) The persons referred by the employment agency to perform temporary work by groups of elementary occupations, according to the adopted classification of professions and specialties for the labour market, including country of employment.
Sectoral bans for temporary agency work activities	<p>A temporary employee can not be entrusted work:</p> <ol style="list-style-type: none"> 1) especially dangerous in the meaning of the provisions issued under Article. 23 7 (15) of the Labour Code; 2) to replace a worker on strike; 3) for the working post, where, in the last 3 months preceding the expected date of commencement of temporary work by a temporary worker, a regular employee of the user employer was dismissed for reasons not attributable to employees. (article 8 of the act on employment of temporary workers)
Applicable reasons for use of	<p><i>The tasks:</i></p> <p><i>a) of seasonal, periodical or ad hoc character</i></p>



temporary agency work services	<p><i>b) whose timely performance by staff employed by the user employer would not be possible or</i></p> <p><i>c) the performance of which is the responsibility of the absent employee's employer.</i></p>
Applicable minimum and maximum length of temporary agency work assignments	<p>According to the article 20 of the act of employment of temporary workers, a temporary worker may perform work for one user employer for a total of 18 months in the period of 36 consecutive months. If a temporary worker performs, on a continuous basis, work involving tasks, whose implementation is the responsibility of the absent employee of the user employer, the period of temporary work may not exceed 36 months.</p> <p>After 18 months a temporary worker may be re-directed to perform temporary work in the user employer's no earlier than after 36 months.</p>
Restrictions on labour contracts to be offered to posted temporary agency workers	Posted workers can be employed only on the basis of fixed-term contracts or a contract to perform a specific task.
Details regarding the country of origin of the posted temporary agency workers in your country/organization	ZAPT has no information regarding the country of origin of the temporary agency workers posted to Poland
Which services (if any) do you provide for the posted temporary agency workers? Are these workers charged any fees for these services?	<p>Trade unions do not offer any specific services for posted temporary workers. These workers may become trade union members and can be offered assistance, especially in the form of guidance free of charge.</p> <p>ZAPT does not provide any specific services for posted temporary workers neither. This workers can obtain any information regarding Polish regulations, situation on job market – just like any other temporary worker. ZAPT can interfere if case of any reclamation against ZAPT's members agencies.</p>

Additional Information – Useful public sources

Useful websites (Labour inspectorate, Ministry of Labour, Trade Union information etc...)	<p>Labour Inspectorate www.pip.gov.pl</p> <p>Ministry of Labour and Social Policy www.mpips.gov.pl</p> <p>Trade unions:</p> <p>NSZZ Solidarność www.solidarnosc.org.pl</p> <p>Secretariat of Bank, Commerce and Insurance workers www.solidarnosc.org.pl/sekretariat.bhiu/</p> <p>OPZZ (all-Poland Alliance of trade unions) www.opzz.org.pl</p> <p>Employers associations:</p> <p>ZAPT (Związek Agencji Pracy Tymczasowej/ Federation of Temporary Staffing)</p>
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	<p>Agencies) www.zapt.pl The Polish Association of Employment Agencies (SAZ) www.saz.org.pl? Polish Confederation of Private Employers Lewiatan (PKPP Lewiatan) www.pkpplewiatan.pl/</p>
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<p>Publications</p>	<p>The representation of agency workers in Europe at national and local level in France, Netherlands, Sweden, Poland and the UK, K. Håkansson, T. Isidorsson, Richard Pond, E. Sol, C. Teissier, J. Unterschütz and F. Warneck, 2008. http://www.av.gu.se/digitalAssets/1272/1272406_Final_RAW_report_090325_w_publisher.pdf</p> <p>ZAPT's share in whole temporary work agencies' market http://www.zapt.pl/pliki/ZAPT's_share_in_whole_temporary_work_agencies'_market.doc</p> <p>Raport z działalności agencji zatrudnienia w 2009 roku (PL) http://www.zapt.pl/pliki/RAPORT_AGENCJE_2009_MPiPS.pdf</p> <p>Terms of employment of employees performing work in the territory of the Republic of Poland posted to work for a fixed period of time by an employer having a seat within the territory of a European Union Member State http://www.pip.gov.pl/html/pl/doc/euro_en.pdf</p>

For questions on this factsheet, please contact the European Sectoral Social Partners:

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