



Regulation of temporary agency work and the modern labor market: a case study of Slovenia

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ABSTRACT

Temporary Agency Work (TAW) is a unique employment model involving a three-way relationship between a posted worker, an employment agency, and a client organization, enabling clients to adjust their labour force in response to fluctuating demands, but also raising concerns about job precariousness. Achieving a balance between flexibility and employment and social security is crucial for integrating TAW effectively into the labour market.

TAW arrangements within the labour markets of the EU are confronted by specific contemporary dynamics, including fluctuations and seasonality of labour demands, labour scarcity in some professions and labour migration. Building on a case study of the TAW legislation development in Slovenia, this study aimed to elucidate the repercussions of these challenges on the regulatory landscape of TAW, potentially illuminating the prospective evolution of labour law standards throughout the EU.

Despite the inherent limitations of case studies, the findings suggest that a detailed legal framework providing strong rights for posted workers and controlled flexibility for clients can be operational in addressing particular labour market challenges. TAW has the potential for further growth, particularly in supporting groups with limited labour market access and in filling professional gaps, by facilitating the integration of foreign workers.

KEYWORDS

temporary agency work, employment agency, labour market, legislation, flexibility, social security

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1 INTRODUCTION

The International Labour Organization (ILO) (2016) highlights the global expansion in the prevalence of non-standard forms of employment. Among these, temporary agency work (TAW) represents a distinctive non-standard employment paradigm, characterized by a tripartite relationship: a worker (posted worker) who is employed by a temporary work agency (agency) and then assigned to perform work at, and under the supervision of, a third-party client company or organization (client). Following the adoption of the Convention No. C181 concerning Private Employment Agencies (Convention C181) (ILO 1997), TAW has rapidly emerged and evolved, signifying a dynamically expanding model within the spectrum of multi-party employment frameworks. In the European Union (EU) and its member states' labour markets, such development was particularly noticeable after 2008 (Spattini 2012; European Commission [EC] 2014; Sartori 2016; Alsos and Evans 2018), following the adoption of the Directive on temporary agency work (TAW Directive) (European Union [EU] 2008).

TAW is recognized for providing flexibility to both posted workers and clients. It allows workers to access a diversity of work experiences and adaptable employment schedules, while enabling clients to adjust their labour force in response to fluctuating demands and specific skill requirements. Nonetheless, the integration of flexibility into employment arrangements has been recognized to escalate the risk of precariousness, a concern highlighted by international (ILO 2013) and regional (European Parliament [EP] 2017; Eurofound 2020) bodies, as well as

researchers (Tangian 2007; Burrioni and Keune 2011; Bartkiw 2014; Countouris et al. 2016). Therefore careful deliberation in integrating TAW into the labour market demands, to ensure a harmonious balance between the sought-after flexibility and the potential repercussions on employment stability and worker safeguards (Ahlberg et al. 2008; Zhang et al. 2015; Fostervold 2018; Strauss-Raats 2019).

TAW arrangements within the labour markets of the EU are confronted by contemporary dynamics, including fluctuations and seasonality of labour demands, labour scarcity in some professions and labour migration (Eurofound 2009; Voss et al. 2013), as well as recent specific challenges, posed by the COVID-19 pandemic and the conflict in Ukraine, along with their subsequent repercussions, followed by skills and labour shortages across the EU (Eurofound 2020; WEC-Europe 2020, 2022).

This study aims to elucidate the repercussions of these challenges on the regulatory landscape of TAW, potentially illuminating the prospective evolution of labour law standards throughout the EU. The research centres on examining the interplay between these trends and the conceptualization of TAW, as well as the influence of TAW's legal regulation of these trends. It leverages a case study encompassing the 25-year trajectory of the legal framework development for TAW in Slovenia. Slovenia exemplifies a relatively typical scenario, with the proportion of TAW closely aligning with the EU27 average, (excluding student work which is not classified as TAW in Slovenia (SiStat 2023)). The country is recognized for its stringent labour standards related to TAW and its comprehensive enforcement efforts. Nevertheless,

the enforcement of these standards encounters substantial challenges attributable to a shortage of labour inspectors and the multifaceted nature of the field. Effective enforcement requires inspectors to possess a diverse set of skills, extensive experience, and profound knowledge to protect the public interest adequately. Further complicating enforcement efforts is the non-uniformity of case law, which poses additional challenges in upholding the labour law standards consistently. Moreover, the relatively small size of Slovenia's labour market, which may not be representative of broader contexts, limits the generalizability of findings from this study.

The paper is methodically organized to address three pivotal research questions: (i) How flexibility of work arrangements and job and social security for the posted workers were balanced in the TAW regulation at its initial adoption, (ii) Which specific challenges in the labour market in general and within TAW arrangements were addressed in the following adjustments of the TAW regulation in Slovenia, (iii) Which limitations, grounded in public interest considerations, on the utilization of TAW, were imposed and what the reasons for their enactment were. Addressing these research questions is instrumental in assessing the adequacy of current labour standards in the area of TAW, especially in the context of the dynamic nature of modern labour markets. The paper will initially introduce both broader and narrower theoretical framework alongside methodological approach, followed by the presentation of the outcomes derived from the Slovenia's case study, as well as discussion and synthesis of the findings in the conclusion.

2 THE DEVELOPMENT OF A GLOBAL LEGAL FRAMEWORK FOR TAW

The notion of 'flexicurity,' a concept that has been shaping labour market policies for approximately 25 years, emphasizes the balance between labour market flexibility and job security. This concept has garnered considerable attention and endorsement at both the global and regional levels, reflecting its significance in the evolving dynamics of work (EC 1997; Tangian 2007; Burroni and Keune 2011). Central to the practical implementation of flexicurity are private employment agencies, which have been instrumental in this discourse for over a quarter of a century. They play a crucial role in facilitating the intricacies of flexicurity, particularly through temporary agency work, thereby contributing significantly to the harmonization of flexibility and job security within global markets (Forde and Slater 2016; ILO 2021).

When in 1997, the ILO adopted Convention C181 and the Recommendations (R188) related to Private Employment Agencies (ILO 1997b), these initiatives aimed to facilitate the operations of private employment agencies, redefine their role in the labour market, and concurrently ensure protection of the workers utilizing these services. This regulatory shift was prompted by the recognition that the established international standards (adopted in 1949 with the ILO Convention No. 96 concerning Fee-Charging Employment Agencies) (ILO 1949) were not in alignment with the needs of the dynamic labour markets of ILO member states and that the role of private employment agencies was excessively restrictive. Convention C181 established enhanced conditions for the operations

of employment agencies and set forth standards in the domain of TAW.

In its initial clause, Convention C181 categorizes private employment agencies as either legal entities or individuals, operationally autonomous from governmental bodies, providing various services within the job market. Convention C181 explicitly allows for profit operations of such agencies. This includes the facilitation of labour, whereby workers are employed by these agencies and subsequently supplied to a third entity (the user), who is responsible for assigning and supervising their tasks, a process referred to as TAW (Article 1, paragraph 1(b)). Despite Convention C181 redefining the perception of employment agencies, allowing them to actively bridge gaps in the labour market, its ratification has been limited. For example, Slovenia has not ratified it to date. In its vicinity, only Italy has embraced the Convention C181 (in 2000), while within the ex-Yugoslav states, its implementation has been realized in Bosnia and Herzegovina (since 2010) and Serbia (since 2013).

Concurrently with the international establishment of Convention C181, the EU adopted the policy document 'Partnership for a New Organisation of Work' (EC 1997), in which it highlighted the necessity for a more flexible labour market, while ensuring that such flexibility would not compromise the social security of workers. This marked the introduction of the flexicurity paradigm in the EU (Burroni and Keune 2011), envisioning various measures to actualize secure flexibility in the labour markets of EU member states. TAW was identified as one of these mechanisms (Arrowsmith 2006). EU institutions introduced the concept of regulated temporary work, to be implemented alongside measures aimed at ensuring employment stability

and protecting workers' rights. A broad public discourse aimed at harmonizing standards regarding agency work led to the adoption of the TAW Directive.

The objective of the TAW Directive (Article 2) was to formally acknowledge temporary work agencies as employers, thereby establishing a comprehensive framework to facilitate TAW with a view to contributing effectively to the creation of jobs and to the development of flexible forms of working. In line with this goal, the TAW Directive restricted the capacity of member states to impose prohibitions or limitations on the utilization of TAW and stipulated (Article 4, paragraph 1) that any such restrictions, posed either by law or by collective arrangements, are permissible only when grounded in public interest considerations, in particular to safeguarding the rights and well-being of posted workers, fulfilling health and safety standards at workplaces, ensuring the efficient operation of the labour market, and circumventing potential abuses. Following the text of the TAW Directive, the quality of TAW was enhanced through the enforcement of the equal treatment principle (Article 5), coupled with the implementation of protective measures aimed at securing the rights of posted workers.

3 LABOUR MARKET CHALLENGES MITIGATED THROUGH TAW

Beyond promoting the balance between flexibility and security in labour markets, the Preamble of the TAW Directive (par. 11) underscores the TAW's capacity to contribute to job creation, participation, and societal integration. Despite the swift proliferation and substantial growth of the TAW model across the EU, the extent to which the TAW

Directive has achieved its foundational objectives remains inadequately examined. In-depth investigations into the dynamics propelling the TAW model's expansion and the rationales behind the preference of organizations (be it companies or public institutions) and workers for TAW over alternative legal forms of (casual) employment in the labour markets of EU member states are scarce. A notable exception includes the two comprehensive EU-wide studies, commissioned by Eurofound (2009) and TAW sector social partners (Voss et al. 2013), offering insights into the factors influencing the demand for and supply of TAW within the EU.

Immediately after the adoption of the TAW Directive, Eurofound (2009) carried out an extensive study in EU member states examining the regulatory forms and traits of TAW models. The findings identified several key motivators for workers' participation in TAW (Eurofound 2009: 6). TAW was instrumental in *reintegrating long-term unemployed* individuals back into employment. It also increased labour market *involvement for those needing or preferring temporary jobs*, such as women and students, by maintaining their employability and providing a balance between work and the personal commitments like education or childcare. *Migrant workers* viewed TAW as a feasible entry point into foreign labour markets. On the demand side, clients (businesses and other organizations) utilized TAW for *controlling wage costs*, particularly in the sectors with lower-skilled jobs, competitive environments, and unpredictable demand. TAW offered a versatile approach for *labour adjustments during economic highs and lows* and periods of increased market volatility. Furthermore, the study (Eurofound 2009: 6–7) indicated that TAW

reduced transaction costs by *outsourcing certain recruitment and administrative tasks to agencies*. Lastly, it established that TAW *created a pool of workers, offering clients a selection of candidates* for potential long-term positions within their organizations.

In 2013, a collaborative study commissioned by the European Trade Union Federation and the World Employment Confederation-Europe (WEC-Europe, formerly Eurociett), representing the private employment services sector at the European level, was conducted by Voss et al. (2013). They highlight that a relatively high proportion of workers engaged in TAW face specific job access difficulties. The identified target groups include workers with migrant backgrounds, ethnic minorities, the long-term unemployed, and disabled people. These groups are disadvantaged in the labour market and often opt for TAW arrangements out of necessity.

This study delineated the four primary motivations for client organizations' adoption of the TAW model. The comprehensive analysis integrated data and numerous case studies from across the EU. One predominant driver for using TAW, was the *attainment of numerical flexibility* (Voss et al. 2013: 64). Organizations achieved this by sustaining a core group of skilled employees while deploying posted workers for swift operational adjustments, thereby mitigating staff turnover and circumventing the severance costs associated with permanent staff. *Ease of recruitment* constituted another significant incentive for TAW adoption, as client organizations delegated the tasks of recruitment and evaluation to agencies, thereby streamlining the assessment of posted workers fit with minimal organizational commitment. The third motivator for utilizing TAW was

the externalization of employment-associated risks. Organizations engaging in this practice, sidestepped the obligations intrinsic to traditional employment relationships, such as hiring, payroll management, and performance oversight, potentially leading to either diminished or more predictable and manageable labour costs.

Research results (Voss et al. 2013; Spermann 2011) suggest that the increased use of TAW, particularly in industries like manufacturing, is evolving beyond its traditional role. Conventionally, temporary workers were employed to manage short-term labour needs during peak periods, or to cover for absent employees. However, TAW is now being strategically utilized by companies, not just as a response to immediate needs, but as a proactive tool within their business strategies. For instance, some companies plan to employ between a quarter and one-third of their workforce through TAW arrangements. Consequently, TAW is being integrated into the roles traditionally held by permanent staff, thus blurring the lines between permanent and temporary employment, with significant implications for both corporate practices and the broader labour market.

4 METHODOLOGY AND RESEARCH QUESTIONS

A body of prior research and a literature review highlight the critical interaction between significant labour market challenges alongside the necessity for effectively regulating mechanisms that could alleviate these discrepancies within a given labour market (Arrowsmith 2006; Antoni and Jahn 2006; Ahlberg 2008; Knox 2018; Alsos and Evans 2018). Studies have demonstrated that the TAW

model plays a key role in addressing difficulties faced by both organizations (including enterprises) and workers. Organizations have found TAW beneficial during periods of increased market volatility, which required adjustments in labour needs on a short to medium term basis (either decreasing or increasing labour quotas), while it has also been helpful for managing the seasonal variability of labour demands and addressing labour shortages in certain professions. On the other hand, posted workers have chosen TAW after extended unemployment spells, when seeking greater flexibility to manage other responsibilities like childcare and education, or when entering a specific labour market as foreign workers (Baiocco et al. 2020).

TAW has been identified as the pivotal model in addressing these challenges, making it reasonable and appropriate to be used as a benchmark for evaluating the effects of its legislation on these dynamics. Employing an inductive approach that includes abstraction and synthesis, while recognizing methodological limitations, it is possible to apply insights gained from TAW to other labour law institutions designed to address prevailing labour market challenges. This strategy aims to enhance the universality of scientific contributions (Creswell 2009).

The qualitative investigation into the dynamics between TAW regulation and contemporary labour market challenges will adopt a non-linear approach, which will feature a versatile research framework conducive to examining the subject matter from various angles, thereby avoiding the confinement to a singular perspective (Neuman 2014). Such an approach is aimed at enhancing the validity and reliability of the research outcomes (Webley 2010; Webley 2016).

The research design adheres to the commonly employed sequence of steps in qualitative investigations, initiating with a literature review and contextual analysis of labour market trends which has established a relationship between various variables and key assumptions about their interaction.

These hypotheses will be further explored through a case study on the TAW regulation in Slovenia. The case study approach was selected for its capacity to examine the identified variables in their actual context from diverse perspectives (Neuman 2014; Webley 2016). Slovenia was chosen due to the continuous and rapid evolution of the TAW model in the country, despite the presence of relatively strict labour laws, ongoing legislative reforms, and stringent, yet challenging enforcement (Breznik and Čehovin Zajc 2021).

According to Eurostat (2024) data, in 2022, 5.9 percent (in 2021 4.8 percent) of workers aged 15 to 64 were engaged in TAW in Slovenia, surpassing the EU27 average (2.6 percent) of 3.3 percent. Data from the Slovenian Labour Force Survey for 2022, as reported by the Statistical Office of the Republic of Slovenia (SiStat 2023), reveals that only 2.2 percent (approximately 22,000 individuals) of the Slovenia's nearly 986,000 employed workers were engaged in a standard TAW model. The rest were student workers. Organizations that use student work have to pay pension contributions for student workers and according to the Pension and Disability Insurance Institute of Slovenia (2023), as many as 21,341 students were involved in the student work system in Slovenia in 2022. In Slovenia, student work forms a unique tripartite arrangement, involving students from universities and secondary schools, and does not align

with typical TAW characteristics since it excludes traditional employment ties, functioning instead as casual work. Consequently, it is not classified as TAW in Slovenia. Nevertheless, the 2.2 percent prevalence of TAW among the Slovenian workforce closely mirrors the EU27 average of 2.6 percent.

Slovenia's utilization of TAW (together with student work) not only exceeds the EU average but also the rates observed in neighbouring countries and those of the former Socialist Federal Republic of Yugoslavia states. In 2022, Slovenia had the highest share (6.5 percent) of employed women as TAW (and student) workers recorded across EU countries, (Eurostat, 2022). Throughout the past decade (from 2011 to 2021), the percentage of workers involved in TAW (aged 15 to 64) in the EU27 varied between 1.7 and 2.6 percent, whereas in Slovenia (again together with student work), it oscillated between 3.5 and 5.9 percent. The share of TAW (and student work) arrangements in Slovenia were highest at the time of worldwide economic crisis (2008–2012, between 5.2 percent and 6.0 percent), while in the time of the COVID-19 pandemic (2019–2021) this share significantly dropped, to as low as 3.5 percent in 2020 (Eurostat 2024).

The research seeks to address the following research questions:

- i. How were flexibility of work arrangements and job and social security for the posted workers balanced in TAW regulation at its initial adoption?
- ii. Which specific challenges in the labour market in general and within TAW arrangements were addressed in the following adjustments of TAW regulation in Slovenia?

- iii. Which limitations, grounded in public interest considerations, on the utilization of TAW were imposed and what were the reasons for their enactment?

Examining the interaction between the TAW regulation in Slovenia and current labour market challenges through a case study will address the posed research questions and illuminate the connections among specific variables. The insights gained, combined with a wider theoretical understanding, will facilitate drawing inferences about the interplay and influence of present-day labour market challenges on conventional labour law frameworks. Acknowledging methodological constraints (Webley 2016; Harrison et al. 2017), further studies will enable the extrapolation of these insights to broader domains of labour law and market regulation.

5 THE INTERACTION BETWEEN LABOUR MARKET CHALLENGES AND TAW REGULATION IN SLOVENIA

The analysis presented in this and subsequent chapters focuses on the interaction between the labour market challenges and the regulation of TAW in Slovenia. The analysis is organized around five distinct phases in the development and regulation of the TAW model in Slovenia: the initial phase, when TAW was introduced but not yet fully established (1996–2002); followed by a period spanning over two decades of standards-setting, which is divided into the phase before the implementation of the TAW Directive (2002–2008) and the two phases following the enactment of the TAW Directive (2008 onwards); concluding with the most recent phase, characterized by rather

incremental legislative amendments (2023). In the next chapter, the principal findings from the legislative analysis will be examined in relation to the research questions.

5.1 THE RISE OF EARLY TAW MODELS IN THE SLOVENIAN LABOUR MARKET

Following Slovenia's independence in 1991, the legislature prolonged the applicability of the existing labour law, namely the Republic's Employment Relationships Act – ZDR-77 (1977) and the Federal Basic Rights Stemming from the Employment Act – ZTPDR (1989). Neither of these laws covered TAW or similar methods of supplying labour to another entity. Seven years later, in 1998, the Act Amending the Employment and Insurance against Unemployment Act – ZZZPB-D (1998) was adopted. This marked the first instance in which organizations were permitted to engage in 'recruitment and provision of workforce' activities (Art. 6, par. 2), which over time evolved into the established TAW model.

The TAW operations under the ZZZPB-D required a concession agreement from the Ministry of Labour, Family, and Social Affairs (Ministry), necessitating that a TAW agency demonstrate compliance with various staffing and organizational standards. A key requirement was for the TAW agency to directly employ its 'internal' staff, not merely engage them on a contract basis. Additionally, agency staff were expected to possess a minimum of higher vocational education and two years of relevant work experience. The Slovenian Employment Service mandated a professional examination covering labour market dynamics, labour legislation, and

unemployment insurance, which was compulsory for all TAW agency employees involved in worker placements.

However, a notable restriction imposed by the ZZZPB-D and its accompanying regulations in 1999 was the limitations on employing foreigners within the TAW framework in Slovenia. TAW agencies were restricted to operating with employees who were either Slovenian citizens, Slovenians without Slovenian citizenship but with a personal work permit, and foreigners who already had a permanent work permit in accordance with foreign employment laws. For these foreigners, a TAW agency could not act as their first employer in Slovenia, nor could it secure such a permit for them, according to Article 4 of the Regulation on the Conditions for the Operation of Employment Agencies – Regulation 99 (1999).

5.2 INTRODUCING A NOVEL ATYPICAL EMPLOYMENT CONTRACT FOR POSTED WORKERS

During the period of modernization of labour standards related to flexibilization of labour relations at the ILO and EU levels, the Slovenian legislator was preparing the first completely revised (not grounded in former SFRY legislation) law in the field of employment relationships since 1997. The consensus among stakeholders was reached in 2002 with the enactment of the Employment Relationships Act – ZDR (2002).

The tripartite relationship between the agency, posted worker and client organization was governed by two contracts: a special (atypical) employment contract between the agency and the posted worker as regulated by the ZDR, and a written agreement between the agency and the client organization.

The ZDR was first piece of legislation in Slovenia that introduced an atypical (non-standard) form of employment contract (Articles 57–62 ZDR) that followed the TWA principle, which was named ‘an employment contract between an employee and an employer who performs the activity of providing the work of employees to another user’. Unique features of the employment contract (Article 60 of the ZDR) included the posted worker performing tasks for different client organization, with the assignment specifying the worker’s place and hours of work, that the salary and compensation would depend on the general acts and collective agreements binding the client organization where the worker would actually work, and that in the case of early termination of work at the client organization’s site or if the agency failed to provide work, the posted worker would receive compensation no less than 70% of the minimum wage.

A written agreement (Article 61 of the ZDR) on mutual rights and obligations between agency and client organization had to be concluded before worker’s posting. It was the client organization’s duty to inform the agency about the conditions for performing work required by the posted worker, which also included providing a risk assessment for injuries and health impairments. Posted workers had to be informed in writing about the agreed work conditions and rights and obligations directly related to the job. Posted workers were required to follow the client organization’s instructions. The relationship between them was also regulated by collective agreements binding the client and the relevant general acts of the client, especially the provisions (and the rights and obligations defined therein) directly related to the performance of work.

Annual leave could be taken based on a prior agreement between the agency and the client organization. The posted worker had the right to refuse work if the client violated rights specified in the mentioned acts (ZDR, Art. 62, par. 3). Since the status of posted workers within the client organization was regulated by the same set of rules that applied to their directly employed (internal) workers, this ensured a very high level of equality between internal and posted workers, even before the TAW Directive was enacted.

The ZDR also introduced additional or new restrictions on TAW beyond those outlined in the ZZZPB-D. Specifically, an agency was prohibited from assigning a worker to a client organization if: a) it involved replacing striking workers; b) the client organization had terminated employment contracts with a significant number of its employees in the 12 months preceding the placement; c) workers would be exposed to hazards and risks requiring measures to reduce or limit exposure; d) such provisions were established in the collective agreement at the industry level. The ZDR (Article 58) allowed for the signing of fixed-term or indefinite employment contracts, but it also stated that the termination of the worker's placement at the client organization could not serve as a reason for terminating the posted worker's employment contract. In 2002, a time limitation was set for individual placement, not exceeding one year and one month (at the same client organization, whether consecutively or not) (Article 59 of the ZDR). This restriction remained until 2013 and severely affected TAW market.

In 2006, Slovenia updated the operating conditions for agencies by adopting the Act Amending the Employment

and Insurance Against Unemployment Act – ZZZPB-F (2006). This introduced a registry for TAW agencies at the Ministry. Agencies were required to register (before commencing operations) as TAW agency, to assign to judicial registry as companies/organizations that involved in the activity of worker placements in another company, and to conclude a concession contract (as previously required by the ZZZPB-D). Monitoring also became more comprehensive, with TAW agencies mandated to submit an annual report detailing internal staff numbers, the number of posted workers, employment status (fixed-term or indefinite) of posted workers, the hours worked, proof of the posted workers' wages paid, a list of client organizations where workers were posted, the agency revenue, etc.

Following Slovenia's accession to the EU in 2006, the ZZZPB-F (Art. 6) broadened the scope of potential labour for agencies to encompass citizens from the EU and the European Economic Area (EEA), who were granted open access to the Slovenian job market at that time, as well as the non-EU/EEA nationals with permanent residency in Slovenia, barring any differing stipulations in international treaties. Furthermore, Article 6b of the ZZZPB-F permitted foreign agencies from the EU or EEA to engage in the Slovenian labour market.

5.3 IMPLEMENTING THE TAW DIRECTIVE AND SUBSEQUENT MODIFICATIONS TO TAW LEGISLATION

Slovenia implemented the TAW directive in 2010 through the Labour Market Regulation Act – ZUTD (2010), which replaced the ZZZPB. Due to 'numerous abuses' in the TAW market (Government of the Republic of Slovenia 2013),

a comprehensive revision of TAW regulations was enacted in 2013 with the Act Amending the Labour Market Regulation Act – ZUTD-C (2013). This amendment introduced additional conditions, limitations, and obligations for stakeholders within the TAW system.

The ZUTD-C amendment refined the definition of TAW to clearly distinguish this arrangement from the services rendered under civil law contracts, such as external execution or outsourcing. This clarification came in response to the Labour Inspectorate of the RS (2013) uncovering a significant increase in companies offering TAW services without being properly registered as TAW agencies. In 2013 report (Labour Inspectorate of the RS 2013: 56–57), inspectors highlighted ongoing issues with the provision of labour to another (business) organization under so-called business cooperation contracts. Inspectors found that workers dispatched under these arrangements were working alongside organization's directly employed workers, in the same production facilities, using the same equipment, and at the same worksite, all under unified management and supervision. The updated definition (Art. 163, par. 1 of ZUTD) specified that TAW activities can be performed by a legal or natural person (TAW agency) that holds an employment contract with the posted worker. In this model, the TAW agency assigns work to a client organization where the posted worker operates under the client organization's supervision and instructions or/and the posted worker is predominantly using the client organization's tools and resources as a part of the work process.

Furthermore, the amendment imposed new responsibilities and introduced further restrictions on TAW

agencies related to their relationship with workers, including (Art. 165 of the ZUTD): a) banning TAW agencies from obstructing posted workers' employment opportunities with client organizations following their assignment; b) preventing TAW agencies from assigning posted workers tasks unrelated to the agency's registered activities, or obtained through civil law contracts; c) stopping TAW agencies from requesting payments or other compensations from posted workers or applicants, reinforcing a prohibition already present in earlier TAW regulations. Additionally, it mandated client organizations to disclose available job positions to posted workers, guaranteeing them equal employment opportunities for permanent positions as those provided to the client organization's directly employed workers.

From the time of their registration and throughout their operation, TAW agencies were not allowed to violate labour and employment laws, nor were they permitted to have unpaid obligations related to wages or tax dues to the state. Additionally, TAW agencies had to provide a bank guarantee of no less than 30,000 euros. This guarantee could be redeemed in case of a conclusive penalty by the Labour Inspectorate of the RS, which determined the agency had unresolved overdue wage-related obligations for a span of two months, according to Article 5 of the Regulation for the operation of providing work to client organizations – Regulation 14 (2014). In 2013, a new annual requirement for TAW agencies was introduced (Art. 174, par. 2 of the ZUTD): the need to submit an independent auditor's report. This report, submitted to the Ministry, had to prove the agency's adherence to applicable laws and the

prompt resolution of any discrepancies found. The existing limitation on employing foreigners (as posted workers) continued to be enforced.

5.4 MODERNISING EMPLOYMENT LAWS TO ADDRESS CONTEMPORARY TAW MARKET CHALLENGES

The year 2013 was also marked with the adoption of the new Employment Relationships Act – ZDR-1 (2013), which introduced three relevant amendments to TAW relations:

- a) a quota of posted workers with fixed-term contract within an individual client organization;
- b) a distinction in the status and rights of the posted workers employed under fixed-term or indefinite-term contracts;
- c) a new division of responsibilities between the agency and client organization to enhance the safety and health of the posted workers' working conditions, as well as their access to adequate training and equal treatment.

While the ZDR-1 removed the limitation on the duration of individual placement (not exceeding one year and one month) at the same client organization previously specified in the ZDR, it introduced a restriction (in Art. 59, par. 3 of the ZDR-1) on the number of agency workers assigned to an individual client organization. The proportion of agency workers employed on a fixed-term basis could not exceed 25 percent of the total number of workers directly employed by the client. This rule was not applicable to smaller employers, or the posted workers with indefinite term employment contract. Sectoral collective agreements could set different limits.

A significant novelty introduced by the ZDR-1, which had a major impact on the development of the TAW market, was the distinction in rights and obligations of the parties, coupled with restrictions based on whether the agency had signed a fixed-term or indefinite-term contract with the posted worker. Agencies could assign workers with indefinite-term contracts to clients without any quota restrictions. Furthermore, the ZDR-1 specified that the employment contract between an agency and a worker was typically established for an indefinite period, with fixed-term contracts permitted only under specific conditions (as outlined in Article 54, paragraph 1 of the ZDR-1), including adherence to the time limitations associated with each condition (Article 55 of ZDR-1). If a worker's assignment at a particular client organization was concluded before the expiration of their fixed-term contract with the agency, the ZDR-1 mandated (in Article 60, paragraph 3) that this should not result in the termination of the fixed-term contract. Instead, the agency was obligated to either secure new employment for the worker, or provide compensation equal to 80 percent of the worker's average monthly full-time salary from the last three months. For the workers with indefinite contracts, the compensation for early termination of work at the client organization, or when the agency was unable to provide work, was significantly lower and set to be no less than 70 percent of the minimum wage.

The Act Amending the Labour Market Regulation Act – ZUTD-A (Republic of Slovenia 2013) (in Art. 39) introduced an additional benefit for indefinite-term employment regarding the employer's contribution to unemployment insurance, which has been a part of the

bundle of obligatory public social security schemes in Slovenia. Employers were exempt from paying this contribution for two years if the employment contract was of indefinite term. In contrast, for fixed-term contracts, the obligation was to pay the contribution at five times the standard rate throughout the contract's duration.

The ZDR-1 placed significant emphasis on the contractual relationship between the client organization and the agency, aiming to secure safe and healthy conditions, adequate training and equal treatment for the posted worker. It mandated that the client organization needed to communicate all necessary work conditions and provide a risk assessment for injuries and health impairments to the agency prior to the commencement of work. A detailed written agreement outlining the mutual rights and responsibilities, including those specific to the worker, was required between the client organization and the agency. Posted workers were to be formally notified of their working conditions, rights, and obligations at the client organization's location before their deployment. It was the agency's duty to ensure the posted worker received comprehensive education, training, and professional development (Art. 62, par. 3 of ZDR-1). The agreement was also to specify provisions for the posted worker's training and education while on an assignment at the client organization's premises.

Moreover, the ZDR-1 meticulously defined the liabilities shared between the client organization and the agency, especially in terms of: a) making the client organization subsidiarily accountable for wage payments and other benefits related to employment (Art. 62, par. 6); b) holding the client organization

responsible for the compliance with legal statutes, collective agreements, and user-specific policies on workplace health safety and regulations on work hours, breaks, and rest periods.

Additionally, the ZDR-1 underscored the principle of equal treatment for both the client organization's directly hired staff and the posted workers. The ZDR-1 (Art. 63, par. 3) specifically stated that posted workers were entitled to the same employment-related benefits that the client organization offered to their own employees. Scholars (Kuralt 2016; Kresal Šoltes 2017), however, continue to highlight issues faced by posted workers, particularly in the aspects such as work-life balance, health and well-being, and opportunities for career advancement—benefits that are usually available to directly employed personnel.

The period following the adoption of the ZDR-1 and ZUTD (and later ZUTD-C) in Slovenia was characterized by economic expansion after 2014. This growth further encouraged the employment of non-standard workers, including posted workers within TAW. However, reforms and legislative changes aimed at limiting non-standard work, especially the reform in 2013, likely failed to reverse these trends (Breznik and Čehovin Zajc 2021: 45). After the legislative changes in 2013, among the workers involved in TAW, the percentage of posted workers with indefinite-term employment contracts began to rise, surpassing the half-way mark in 2015 and reaching nearly 70 percent by 2018. This trend was spurred by the ZDR-1, which introduced a distinction in the status and rights of posted workers employed under fixed-term or indefinite-term contracts (Breznik 2018).

In this period, the TAW system in Slovenia has evolved beyond its original intent of supplying labour in professions

with shortages, or in situations where clients urgently required specific worker profiles. It has increasingly become an integral part of client organizations' business strategies. Concurrently, as noted by Breznik (2018), this shift has heightened the risk of exploiting workers, particularly those with limited options in the unstable labour market conditions.

5.5 LATEST INCREMENTAL ADJUSTMENTS TO LAW LEGISLATION

During the COVID-19 pandemic in Slovenia, the share of posted workers dropped significantly, from 5.9 percent of workers aged 15 and older involved in TAW in 2018, to 3.5 percent in 2020 (Eurostat 2024). However, by 2022, the figure had rebounded to its previous level of 5.9 percent (Eurostat 2024). The pandemic heavily impacted TAW workers, with a high incidence of force majeure-related layoffs by agencies. Agencies and their clients actively negotiated to alleviate the adverse effects of lockdowns, severe supply shortages, and workflow disruptions. This crisis underscored significant legislative gaps in labour protection, especially for posted workers. Caught between clients and agencies, both parties often disclaimed responsibility and denied their obligations to provide compensation to workers.

Post COVID-19, in 2023, the legislator planned a comprehensive reform of the ZDR-1 and shared a draft proposal with social partners, but a consensus was not reached. By mid-November 2023, the Act Amending the Employment Relationships Act – ZDR-1D (2023) had been enacted. The sole significant change concerning TAW pertained to the compensation for early termination of work at client organization, or for periods when

the agency failed to provide work for workers with indefinite-term contracts. The ZDR-1D updated the compensation from 70 percent to 80 percent of the worker's average monthly full-time salary from the last three months. This adjustment increased the compensation, aligning it with the benefits (Art. 138, ZDR-1), paid by employers (not just agencies) during periods they cannot provide work due to business reasons, and with the compensation for the agency workers on fixed-term contracts whose assignments at a specific client organization end before their contracts have expired (Art. 60, par. 3 of ZDR-1). The reasoning for the amendment (Government of the RS 2023) was that increasing the compensation for periods of non-activity provided essential social protection for the posted worker, while also encouraging agencies to secure placements and work for the posted worker in accordance with their employment contract.

A proposed significant modification in the regulation of TAW was the reduction of the permitted quota of agency workers at a client organization. The proposal aimed to limit the number of posted workers to 15 percent (down from 25 percent in the current ZDR-1) of the total employed workforce at the client organization. This change was intended to include an exception for smaller employers, where the 25 percent quota would still apply. The draft law also stipulated that if 15 percent of the workforce amounted to fewer than two workers, the number of posted workers should not exceed this figure. However, this limitation would not include workers employed on an indefinite basis by the agency. The rationale for this amendment (Government of the RS 2023) was to preserve the core function of TAW,

which is to provide labour for temporary and occasional increases in work demand. The exception for smaller employers was suggested to be removed to prevent potential abuses. Ultimately, in response to the strong reaction from social partners in the TAW market (especially representatives of agencies and employer organizations), this proposal was excluded from the final draft.

6 DISCUSSION

Slovenia was an early adopter TAW arrangements. In 1998 the legislator introduced a novel tripartite work model that allowed workers to be employed by an employment agency while being placed to work for another enterprise. Since gaining independence in 1991, Slovenia grappled with the aftermath of dissolving a former federal state, leading to a significantly smaller labour market. These monumental changes presented severe challenges to both the economy and the labour market, which struggled with a general labour supply shortage, particularly in specialized professions. The legislature acknowledged the necessity for more flexible work arrangements, as the existing labour legislation, a holdover from the socialist-oriented framework of the former SFRY, offered limited flexibility for such modern employment practices.

The initial phase of TAW adoption from 1998 to 2002 featured the market debut of the TAW model, initially designated for domestic workers and foreigners with pre-existing permits for TAW engagements. The restriction on hiring foreign workers who had not previously worked in Slovenia under the TAW framework has remained to be one of the most substantial limitations, aimed at protecting the market from an

excessive influx of foreign labour and preventing unfair competition against domestic workers. As envisioned by the Slovenian legislator, TAW agencies have been mandated to help with balancing labour market discrepancies, however only within the domestic market and without independently sourcing foreign labour. The regulation of foreign workforce entry continues through a state-administered system of work and residence permits, under the Foreigners Act – ZTuj-2 (2021). Following Slovenia's EU accession, gradual modifications to these restrictions were introduced, including special categories for work permit holders, like asylum seekers. Slovenian TAW agencies have, for instance, successfully facilitated the employment of Ukrainian workers amidst the latest conflicts, demonstrating their effectiveness in adjusting to labour market needs (Krapež 2022).

Following the enactment of the ZDR in 2002 and the subsequent implementation of the TAW Directive, a primary challenge emerged with the proliferation of business entities unlawfully masquerading as TAW agencies without proper registration. This situation presented significant risks to worker welfare, as highlighted by the Labour Inspectorate of RS (2020), with employees often facing unpaid wages and neglect from both the pseudo-agencies and the companies they were placed in. The legislative and administrative focus has since been on preventing, identifying, and penalizing such illicit TAW operations. Over the past two decades, a series of legislative measures have been introduced to curb these practices, firstly by setting a clear definition to differentiate outsourcing from TAW arrangements through the ZUTD-C. Other significant legislative efforts aimed at addressing this issue

included strengthening conditions of the registration and operation of agencies (such as registry inclusion, bank guarantees, and staff-related prerequisites), increasing the agencies' reporting obligations, enhancing market monitoring by the labour inspectorate, Ministry and other authorities, and imposing stricter penalties.

Since the inception of the TAW model in Slovenia, a comprehensive suite of legislative measures has been implemented to ensure a balanced interplay between *the need for labour flexibility by enterprises* and other organizations, and *the demand for high job security, robust social rights*, and protection against unlawful practices for posted workers.

Social and job security have been at the centre of legislative amendments throughout the introduction and development of TAW arrangements. It was not just one, but rather a set of interventions at various levels that served this purpose. Firstly, the design of *the TAW model in Slovenia is among the least flexible and most robust*, prohibiting casual arrangements between agencies and workers and *requiring a specific type of employment contract*. This atypical employment between the TAW agency and the posted worker has been highly regulated. Furthermore, the relationship between the client organization and TAW agency is governed by another contract, which is also formalized. Regulatory interventions have timely addressed minor discrepancies in the tripartite relationship. The principle of equality between the rights of posted workers and the rights of directly employed workers at the client organizations was introduced from the beginning, then explicitly enacted with the ZDR, and further strengthened with the ZDR-1, extending to all forms of

benefits that workers received at the client's organization.

Besides establishing a robust framework for TAW arrangements, the Slovenian legislator introduced measures to address certain undesirable trends in the TAW market. Firstly, *TAW agencies were discouraged from using fixed-term contracts for posted workers* by introducing several benefits for employing workers on an indefinite basis, such as exempting these workers from the client organizations' quota, offering lower social contribution payments, and ensuring compensation between placements. By differentiating the rights and obligations that agencies had for workers on fixed-term versus indefinite-term contracts, the legislator reversed the fixed-term employment for posted workers, especially after the enactment of the ZDR-1 and the ZUTD-C in 2013 (Breznik 2018). Secondly, *compensation for posted workers between placements*, introduced in 2002, has only increased with subsequent amendments (in 2013 with the ZDR-1 and in 2023 with the ZDR-1C). The possibility of layoffs by the agency if the placement ends prematurely is greatly restricted, ensuring compensation for posted workers. Thirdly, *several mechanisms were enacted to ensure prompt payment of worker salaries*, making client organizations and agencies co-responsible. Furthermore, legislative amendments addressed *safe working conditions for posted workers at client organizations' premises* and clarified responsibilities between agencies and clients to counter the avoidance tactics exposed by proliferating court cases (Pustovrh Pirnat 2013).

Throughout this time, enforcement efforts in Slovenia had been challenging, as highlighted by the Labour Inspectorate of RS (2022: 65–66). This task

demanded a broad array of skills, extensive experience, and deep knowledge from labour inspectors to effectively safeguard the public interest. Inspectors were required to conduct on-site assessments through direct observation, accurately identify and secure evidence, implement administrative inspection procedures in line with legal standards, handle misdemeanour cases, and, ultimately, initiate legal actions against judicial decisions to protect public interests. The Labour Inspectorate of RS (2022: 66) also noted the inconsistency of case law in the field of TAW. With problematic labour practices prevalent in TAW not only in Slovenia but also internationally, there is a significant need for enhanced regulatory supervision and further development of case law to eliminate such employment patterns.

The mere enactment of the possibility of employing the TAW model in the country already marks a step towards *market flexibilization*. Over the twenty years since the TAW model's inception, the legislator removed two significant obstacles to the development of TAW arrangements, thereby facilitating the increase in placements without adversely affecting the market (Breznik and Čehovin Zajc, 2021). The first measure was the elimination of the maximum duration of individual placements, which existed from 2002 to 2013. This limitation was intended to maintain the temporary nature of placements, preventing TAW from becoming a permanent rather than a casual solution for workers. However, this restriction proved too restrictive for all market stakeholders and did not necessarily fulfil its intended purpose. By removing this restriction, the legislator introduced additional incentives for workers and obligations for agencies and client organizations to allow workers

to either transfer directly to the client organization, opt for an indefinite-term employment contract with other organizations outside the TAW system, or return to the TAW agency.

Concurrent with this removal (with the adoption of ZDR in 2013), another safeguard was introduced: a quota of posted workers within individual client organizations. This measure aimed to prevent client organizations from overly relying on 'flexible' arrangements rather than limiting the duration of an individual posted worker's stay with a particular client organization. In the latest legislative amendment in 2023, the legislator proposed to social partners a further reduction of this quota from 25 percent to 15 percent of workers at client organizations. This proposal was not adopted, as representatives of enterprises (employer organizations) and agencies considered it overly restrictive and not aligned with the current labour market needs, explaining that such intervention would also not significantly improve workers' protections or rights.

However, implementing a quota that limits the share of posted workers to 15 percent of the full-time equivalent workforce at client organizations—irrespective of the nature of their contracts (whether unlimited or fixed-term) with the agency and without exceptions for smaller clients—is crucial. This measure would prevent the strategic utilization of TAW by clients in Slovenia as a proactive business tool. It is imperative for Slovenian legislators to take action to curb the integration of TAW into roles typically reserved for permanent staff, thereby maintaining clear distinctions between permanent and temporary employment. This is essential to mitigate the potential implications for both corporate practices and the broader labour market.

7 CONCLUSION

Labour law institutions play a critical role in defining employment relationships and labour markets, underpinning sustainable socio-economic progress, particularly in light of changing work paradigms (ILO 2016, 2021). Grasping the significance of these institutions from the viewpoint of all market participants, including specific market segments like emerging, new forms of work, is imperative. This research sought to assess the impact of labour law institutions on shaping labour markets resilient and responsive to contemporary challenges. It specifically examined temporary agency work, a flexible employment mechanism introduced to adapt to evolving market needs.

Through a case study examining the interplay between labour market challenges experienced in Slovenia at various times and the legislative framework governing TAW relationships, the study offers a comprehensive analysis of the opportunities and limitations presented by this unique labour market tool. Analysing the perspectives of posted workers, TAW agencies as employers, client organizations, and society enriches our understanding and lays the groundwork for contemporary worker-employer dynamics (Ahlberg et al. 2008).

Over time, Slovenia's TAW market has seen gradual development and maturation (Redek et al. 2017). Legislators have established a comprehensive legal framework that ensures robust labour and social security rights for posted workers, while also providing client organizations with a degree of necessary but controlled flexibility. The evolution of the TAW market has been under vigilant supervision, with

authorities swiftly addressing significant issues. The primary challenge to the TAW model's growth has been the illegal operations of entities posing as TAW agencies and providing outsourcing services (Labour Inspectorate of the Republic of Slovenia 2020). These illicit operations are difficult to identify and often harm both posted workers and client organizations, with Slovenian enforcement agencies achieving only limited success in curbing these practices. The issue has extended beyond national borders, involving illegal international worker placements and significantly tarnishing the reputation of domestic agencies within Slovenia (ETUC 2019). Consequently, much of the scholarly discourse, particularly within legal studies, has portrayed TAW arrangements as precarious or hazardous for posted workers (Kresal 2014; Šenčur-Peček 2019, 2020; Kresal Šoltes 2020). The stigma of precarity also stems from the fact that the salaries of posted workers in Slovenia are low, with nearly one in three posted workers earning only up to 60 percent of the average net salary (Breznik and Čehovin Zajc 2021: 39).

It is imperative that the Slovenian legislature implements additional safeguards for posted workers who find themselves in predicaments where both agencies and clients deny their responsibilities. Further legislative measures are required to curtail the strategic deployment of TAW by clients, not merely as a reactive measure to immediate needs, but as a proactive element within their business strategies. The proposed legislative amendment of 2023, which sought to reduce the quota of posted workers from 25 to 15 percent within a single client organization, represented a progressive step, though it was ultimately not enacted.

The TAW model in Slovenia holds the potential for significant development to meet current and future market challenges. This potential is particularly evident in addressing the needs of worker groups facing substantial barriers to entering or remaining in the labour market, such as foreign workers, elderly individuals, those with little to no experience, individuals seeking their first employment, and workers with disabilities. Broadly, TAW arrangements possess untapped potential to alleviate labour shortages in specific professions, especially by opening up to foreign workers and enabling TAW agencies to facilitate their integration into the Slovenian labour market. Opportunities also lie in the digitalization and the use of artificial intelligence-driven technology in the TAW sector (Potocka-Sionek 2020; Oorschot 2021). TAW agencies have already demonstrated effectiveness in

managing the integration of workers who have entered Slovenia due to the conflict in Ukraine (Krapež 2022).

The methodological limitations of case studies call for caution in generalizing results to other contexts (Webley 2010, 2016). In the context of Slovenia, future research could delve further into the regulation of TAW through the social dialogue between trade unions and employers' organizations, as well as analyse the existing soft law in the field and the judicial approach to TAW. In the global context, further analysis could similarly examine other EU member states or explore new forms of work designed to address similar labour market challenges. There is significant value in conducting comparative studies across EU member states to gain deeper insights into these dynamics and understand the intricacies of transnational labour regulation (Ahlberg 2008).

REFERENCES

- Act Amending the Employment and Insurance Against Unemployment Act 1998*. (1998, September 25). <https://pisrs.si/pregledPredpisa?id=ZAKO579>
- Act Amending the Employment and Insurance Against Unemployment Act 2006*. (2006, July 14). <https://pisrs.si/pregledPredpisa?id=ZAKO4474>
- Act Amending the Employment Relationships Act 2023*. (2023, November 15). <https://pisrs.si/pregledPredpisa?id=ZAKO8708>
- Act Amending the Labour Market Regulation Act – ZUTD-A 2013*. (2013, March 5). <https://pisrs.si/pregledPredpisa?id=ZAKO6524>
- Act Amending the Labour Market Regulation Act – ZUTD-C 2013*. (2013, November 27). <https://pisrs.si/pregledPredpisa?id=ZAKO6791>
- Ahlberg, K., Bercusson, B., Bruun, N. G., Kountouros, H., Vigneau, C., & Zappalà, L. (2008). *Transnational Labour Regulation: A case study of temporary agency work*. Brussels: Peter Lang Publishing Group.
- Alsos, K., & Evans, C. (2018). Temporary work agencies: Triangular disorganization or multilevel regulation? *European Journal of Industrial Relations*, 24(4), 391–407. <https://doi.org/10.1177/0959680118790819>
- Arrowsmith, J. (2006). *Temporary agency work in an enlarged European Union*. Eurofound, European Industrial Relations Observatory, Office for Official Publications of the European Communities, Luxembourg. <https://www.eurofound.europa.eu/en/publications/2006/temporary-agency-work-enlarged-european-union>
- Antoni, M., & Jahn, E. J. (2006). Do Changes in Regulation Affect Employment Duration in Temporary Work Agencies? *SSRN Electronic Journal*. <https://doi.org/10.2139/ssrn.937876>
- Baiocco, S., de Groen, W. P., Kilhoffer, Z., & Lenaerts, K. (2020). *Social Innovation in the Temporary Agency Work Industry*. Centre for European Policy Studies (CEPS) and the Research Institute for Work and Society (HIVA) at KU Leuven, commissioned jointly by the World Employment Confederation-Europe (WEC-Europe) and UNI Europa Temporary Agency Work. https://www.weceurope.org/uploads/2020/12/20201201_CEPS-HIVA_Social-innovation-TAW-research-report.pdf
- Bartkiw, T. J. (2014). Labour Law and Triangular Employment Growth: A Theory of Regulatory Differentials. *International Journal of Comparative Labour Law and Industrial Relations*, 30(4). <https://doi.org/10.54648/ijcl2014024>
- Breznik, M. (2018). Agencijski delavci. In Miroslav Stanojević and Sašo Furlan (Eds.), (Ne) dostojno delo: prekarizacija standardnega in nestandardnega zaposlovanja v Sloveniji, (pp. 160–179). Ljubljana: Fakulteta za družbene vede, Založba FDV.
- Breznik, M., & Čehovin Zajc, J. (2021). Prekarizacija standardnega in nestandardnega zaposlovanja v Sloveniji (2005–2019). *Teorija in praksa*, 58(1), 28–48. <https://doi.org/10.51936/tip.58.1.28-48>
- Burroni, L., & Keune, M. (2011). Flexicurity: A conceptual critique. *European Journal of Industrial Relations*, 17(1), 75–91. <https://doi.org/10.1177/0959680110393189>
- Countouris, N., Deakin, S., Freedland, M., Koukiadaki, A., & Prassl, J. (2016). *Report on temporary employment agencies and temporary agency work*. Geneva: International Labour Organization, <https://www.ilo.org/publications/report-temporary-employment-agencies-and-temporary-agency-work>
- Creswell, J. W. (2009). *Research Design: Qualitative, Quantitative, and Mixed Methods Approaches* (3rd ed.). Thousand Oaks, CA: Sage Publications.

- Employment Relationships Act 2002*. (2002, April 24). <https://pisrs.si/pregledPredpisa?id=ZAKO1420>
- Employment Relationships Act 2013*. (2013, March 5). <https://pisrs.si/pregledPredpisa?id=ZAKO5944>
- ETUC (European Trade Union Confederation) (2019). Unions refer first exploitation cases to new European Labour Authority for investigation. <https://www.etuc.org/en/pressrelease/unions-refer-first-exploitation-cases-new-european-labour-authority-investigation>
- Eurofound (2009). Temporary agency work and collective bargaining in the EU. Luxembourg: Publications Office of European Union. https://www.eurofound.europa.eu/sites/default/files/ef_files/docs/eiro/tn0807019s/tn0807019s.pdf
- Eurofound (2020). New forms of employment: 2020 update. Luxembourg: Publications Office of European Union. <https://www.eurofound.europa.eu/publications/report/2020/new-forms-of-employment-2020-update>
- European Commission – EC (2014). Report from the Commission to the European parliament, the Council, the European economic and social committee and the Committee of the regions on the application of directive 2008/104/ec on temporary agency work, COM(2014) 176 final. <http://ec.europa.eu/social/BlobServlet?docId=11459&langId=en>
- European Commission – EC (1997). Partnership for a new organisation of work – Green paper (COM(97)0128 – C4-0187/97). Luxembourg: Office for Official Publications of the European Communities. <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:51997DC0128&from=EN>
- European Parliament (2017). *Temporary contracts, precarious employment, employees' fundamental rights and EU employment law*. Brussels: European Parliament. <http://www.europarl.europa.eu/supporting-analyses>
- European Union (2008). *Directive (EU) 2008/104 of the European Parliament and of the Council of 19 November 2008 on temporary agency work*. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32008L0104>
- Eurostat (2022). *Temporary employment – statistics*. https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Temporary_employment_-_statistics#Main_concept
- Eurostat (2024). *Temporary employment agency workers by sex, age, and NACE Rev. 2 activity*. https://ec.europa.eu/eurostat/databrowser/view/lfsa_qoe_4a6r2__custom_10908832/default/table?lang=en
- Federal Basic Rights Stemming from Employment Act 1989*. (1989, September 28). <https://pisrs.si/pregledPredpisa?id=ZAKO1316>
- Foreigners Act 2021*. (2021, June 15). <https://pisrs.si/pregledPredpisa?id=ZAKO5761>
- Fostervold, K. I., Koren, P. C., & Nilsen, O. V. (2018). Defining Sustainable and “Decent” Work for Human Factors and Ergonomics. In A. Thatcher & P. H. P. Yeow (Eds.), *Ergonomics and Human Factors for a Sustainable Future: Current Research and Future Possibilities* (47–76). Singapore: Springer Singapore. https://doi.org/10.1007/978-981-10-8072-2_3
- Government of the RS (Vlada RS). (2013). *Predlog Zakona o spremembah in dopolnitvah zakona o urejanju trga dela (ZUTD-C)*, EVA 2013-2611-0073. <https://e-uprava.gov.si/si/drzava-in-druzba/e-demokracija/predlogi-predpisov/predlog-predpisa.html?id=4331>
- Government of the RS (Vlada RS). (2023). *Predlog Zakona o spremembah in dopolnitvah zakona o delovnih razmerjih (ZDR-1D)*, EVA 2022-2622-0061. https://www.dz-rs.si/wps/portal/Home/zakonodaja/izbran?uid=C1257A70003EE6A1C1258A4E0035D639&db=kon_zak&mandat=IX&tip=doc

- Harrison, H., Birks, M., Franklin, R., & Mills, J. (2017). Case Study Research: Foundations and Methodological Orientations. *Forum Qualitative Sozialforschung Forum: Qualitative Social Research*, 18(1). <https://doi.org/10.17169/fqs-18.1.2655>
- International Labour Organization (1949). *C96 – Fee-Charging Employment Agencies Convention (Revised), 1949*. https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C096
- International Labour Organization (1997a). *C181 – Private Employment Agencies Convention, 1997*. https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:55:0::NO::P55_TYPE,P55_LANG,P55_DOCUMENT,P55_NODE:CON,en,C181,/Document
- International Labour Organization (1997b). *R188 – Private Employment Agencies Recommendation, 1997*. https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:R188
- International Labour Organization (2013). Meeting the challenge of precarious work: A workers' agenda. Geneva: International Labour Organization. https://www.ilo.org/actrav/international-journal-labour-research/WCMS_216282/lang-en/index.htm
- International Labour Organization (2016). Non-standard employment around the world. Geneva: International Labour Organization. https://www.ilo.org/global/publications/books/WCMS_534326/lang-en/index.htm
- International Labour Organization (2021). Non-standard forms of employment in selected countries in Central and Eastern Europe. A critical glance into regulation and implementation. ILO Decent Work Technical Support Team and Country Office for Central and Eastern Europe. Geneva: International Labour Organization. https://www.ilo.org/wcmsp5/groups/public/---europe/---ro-geneva/---sro-budapest/documents/publication/wcms_793096.pdf
- Knox, A. (2018). Regulatory avoidance in the temporary work agency industry: Evidence from Australia. *The Economic and Labour Relations Review*, 29(2), 190–206. <https://doi.org/10.1177/1035304618765526>
- Krapež, K. (2022). Zaposlovanje oseb z začasno zaščito iz Ukrajine v sistemu agencijskega dela v Sloveniji. *Podjetje in delo*, 48(3/4), 455–479.
- Kresal, B. (2014). Prikrita delovna razmerja – nevarno izigravanje zakonodaje. *Delavci in delodajalci*, 2014 (2-3): 177–200.
- Kresal Šoltes, K. (2017). Razmejitev obveznosti med agencijo in podjetjem uporabnikom ter načelo enakega obravnavanja – je lahko model tudi za druge nestandardne oblike dela? *Delavci in delodajalci*, 2017 (2-3): 199–220.
- Kresal Šoltes, K. (2020). Začasno agencijsko delo. In Kresal Šoltes, K., Strban, G., Domadenik, P. (Eds.) *Prekarno delo: Multidisciplinarna analiza*. Elektronska izdaja Zbirka Maksima, (pp. 46–66). <http://www.pf.uni-lj.si/media/prekarno.delo.pdf>
- Kuralt, T. (2016). Kritični pogled na opravljanje dejavnosti zagotavljanja dela delavcev uporabniku. *Podjetje in delo*, 14(3-4): 615.
- Labour Inspectorate of the RS (2013). Poročilo o delu Inšpektorata RS za delo za leto 2013. <https://www.gov.si/assets/organi-v-sestavi/IRSD/LETNA-POROCILA-IRSD/12487599e8/Porocilo-o-delu-IRSD-za-letno-2013.pdf>
- Labour Inspectorate of the RS (Inšpektorat RS za delo RS) (2020). Poročilo o delu Inšpektorata RS za delo za leto 2020. https://www.gov.si/assets/organi-v-sestavi/IRSD/LETNA-POROCILA-IRSD/LP_IRSD_2020_www_skupno.pdf
- Labour Inspectorate of the RS (Inšpektorat RS za delo RS) (2023). Poročilo o delu Inšpektorata RS za delo za leto 2022. <https://www.gov.si/assets/organi-v-sestavi/IRSD/LETNA-POROCILA-IRSD/Letno-porocilo-o-delu-IRSD-za-letno-2022.pdf>

- Labour Market Regulation Act 2010*. (2010, September 28). <https://pisrs.si/pregledPredpisa?id=ZAKO5840>
- Neuman, W. L. (2014). *Social Research Methods: Qualitative and Quantitative Approaches, Seventh Edition*. Edinburgh Gate, United Kingdom: Pearson Education Limited.
- Oorschot, S. van (2021). Digitalisation and Temporary Agencies: Impact on the Business Model and Internal Organisation. *Research in Hospitality Management*, 11(3): 241–48. <https://doi.org/10.1080/22243534.2021.2006926>
- Pension and Disability Insurance Institute of Slovenia (2023). *Statistični pregled 2022*. <https://www.zpiz.si/cms/?ids=content2019&inf=1195#x1>
- Potocka-Sionek, N. (2020). The Changing Nature of Labour Intermediation. Do Algorithms Redefine Temporary Agency Work? In J. Wratny & A. Ludera-Ruszel (Eds.), *New Forms of Employment: Current Problems and Future Challenges* (169–190). Wiesbaden: Springer Fachmedien Wiesbaden. https://doi.org/10.1007/978-3-658-28511-1_10
- Pustovrh Pirnat, T. (2013). Sodna praksa glede odgovornosti zaposlitvene agencije za škodo, ki jo utрпи delavec pri delu. *Delavci in Delodajalci*, 2013(1), 79.
- Redek, T., Bavdaž, M., Cepec, J., Domadenik, P., Godnov, U., & Kostevc, Č. (2017). Vpliv zasebnih agencij za zaposlovanje na trg dela v Sloveniji. Ljubljana: Zavod RS za zaposlovanje. https://www.ess.gov.si/_files/10742/Vpliv_zasebnih_agencij_za_zaposlovanje_na_trg_dela_v_Sloveniji.pdf
- Regulation for the operation of providing work to client organizations 2014*. (2014, February 28). <https://pisrs.si/pregledPredpisa?id=PRAV12043>
- Regulation on the Conditions for the Operation of Employment Agencies 1999*. (1999, June 15). <https://pisrs.si/pregledPredpisa?id=PRAV628>
- Republic's Employment Relationships Act 1977*. (1977, December 28). <https://pisrs.si/pregledPredpisa?id=ZAKO2422>
- Sartori, A. (2016). Temporary Agency Work in Europe: Degree of Convergence following Directive 2008/104/EU. *European Labour Law Journal*, 7(1), 109–125. <https://doi.org/10.1177/201395251600700106>
- Spattini, S. (2012). Agency Work: a Comparative Analysis. *E-Journal of International and Comparative Labour Studies*. https://ejcls.adapt.it/index.php/ejcls_adapt/article/view/45. Accessed 18 February 2024
- Spermann, A. (2011). *The New Role of Temporary Agency Work in Germany*. IZA Discussion Paper No. 6180. <https://www.iza.org/publications/dp/6180/the-new-role-of-temporary-agency-work-in-germany>. Accessed 18 February 2024
- Statistical Office of the Republic of Slovenia – SiStat (2023). Labour force survey results, 2022. <https://www.stat.si/StatWeb/en/News/Index/11047>
- Strauss-Raats, P. (2019). Temporary safety. Regulating working conditions in temporary agency work. *Safety Science*, 112, 213–222. <https://doi.org/10.1016/j.ssci.2018.10.020>
- Šenčur-Peček, D. (2019). Izzivi delovnega prava v času prekarnega dela. *Podjetje in delo*, 2019(6-7), 1033.
- Šenčur Peček, D. (2020). Navidezni samozaposleni in prikrita delovna razmerja. In Kresal Šoltes, K., Strban, G., Domadenik, P. (Eds.) *Prekarno delo: Multidisciplinarna analiza*. Elektronska izdaja Zbirka Maksima, (pp. 46–66). <http://www.pf.uni-lj.si/media/prekarno.delo.pdf>
- Tangian, A. (2007). European flexicurity: concepts, methodology and policies. *Transfer: European Review of Labour and Research*, 13(4), 551–573. <https://doi.org/10.1177/102425890701300404>

- Voss, E., Vitols, K., Farvaque, N., Broughton, A., Behling, F., Dota, F., ... Naedenoen, F. (2013). *The Role of Temporary Agency Work and Labour Market Transition in Europe*, Final Report for the Joint Eurociett/UNI Europa Project. Hamburg, February 2013, 1–167.
- Webley, L. (2010). Qualitative Approaches to Empirical Legal Research. In P. Cane & H. M. Kritzer (Eds.), *The Oxford Handbook of Empirical Legal Research* (0). Oxford, United Kindgdom: Oxford University Press. <https://doi.org/10.1093/oxfordhb/9780199542475.013.0039>
- Webley, L. (2016). Stumbling Blocks in Empirical Legal Research: Case Study Research. *Law and Method*, 38(10), 12–14. <https://doi.org/10.5553/REM/000020>
- World Employment Confederation (WEC)-Europe (2020) *Covid-19: The Road to Recovery Private Employment Services stand ready to play their part*. <https://weceurope.org/uploads/2020/07/WEC-Policy-Paper-Covid-19-The-road-to-recovery-FINAL.pdf>
- World Employment Confederation (WEC)-Europe (2022). *Making better matches: How the private employment services industry helps to reduce labour and skills shortages in Europe*. A World Employment Confederation-Europe Strategic Issue Paper, 30 August 2022. <https://weceurope.org/publication-post/making-better-matches-how-the-private-employment-services-industry-helps-to-reduce-labour-and-skills-shortages-in-europe/>
- Zhang, M. M., Bartram, T., McNeil, N., & Dowling, P. J. (2015). Towards a Research Agenda on the Sustainable and Socially Responsible Management of Agency Workers Through a Flexicurity Model of HRM. *Journal of Business Ethics*, 127(3), 513–523. <https://doi.org/10.1007/s10551-013-2045-z>

Data Availability Statement

Majority of used data are available in the manuscript; additional data are also available from the authors upon request.

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Regulativa o privremenom agencijskom zapošljavanju i savremeno tržište rada: studija slučaja Slovenije

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Institucije radnog prava igraju ključnu ulogu u definisanju radnog odnosa i tržišta rada, podržavajući održivi socioekonomski razvoj, posebno u svetlu promene paradigmi rada. Sagledavanje značaja ovih institucija sa stanovišta svih učesnika na tržištu, uključujući i specifične segmente tržišta, kao što su nove, fleksibilne forme rada, jeste imperativ.

Rad u agenciji za privremeno zapošljavanje (APZ) predstavlja karakterističnu nestandardnu paradigmu zapošljavanja, koju karakteriše tripartitni odnos: radnik (poslanik) koji je zaposlen u agenciji za privremeno zapošljavanje (agencija), a zatim raspoređen da obavlja poslove u, i pod nadzorom kompanije ili organizacije klijenta, odnosno treće strane (klijent), nudeći fleksibilnost, ali i izazivajući zabrinutost zbog nesigurnosti posla. Postizanje ravnoteže između fleksibilnosti, zapošljavanja i socijalne sigurnosti ključna je za efikasnu integraciju APZ-a na tržište rada.

Aranžmani agencijskog zapošljavanja na tržištima rada država Evropske unije (EU) suočeni su sa specifičnom, savremenom dinamikom, koja uključuje promenljivost i privremenost potražnje za radnom snagom, nedostatak radne snage u nekim profesijama, kao i migraciju radne snage. Polazeći od razvoja legislative o privremenom agencijskom zapošljavanju u Sloveniji, ova studija je imala za cilj da razjasni posledice utvrđenih izazova na regulatorni okvir APZ, potencijalno osvetljavajući buduću evoluciju radnopravnih standarda širom EU.

Uprkos inherentnim ograničenjima sprovedenih studija, nalazi sugerišu da sveobuhvatan pravni okvir koji obezbeđuje jaka prava upućenim radnicima i kontrolisanu fleksibilnost za klijente može biti operativan u rešavanju određenih izazova tržišta rada. Aranžmani agencijskog zapošljavanja predstavljaju neiskorišćeni potencijal za suočavanje sa nedostatkom radne snage u određenim profesijama, posebno otvaranjem prema stranim radnicima i omogućavanjem njihove integracije na tržište rada uz pomoć APZ. Mogućnosti takođe leže u digitalizaciji i korišćenju tehnologije vođene veštačkom inteligencijom kod agencijskog zapošljavanja.

Buduća istraživanja u ovoj oblasti bi uključivala regulisanje APZ mehanizmima socijalnog dijaloga sindikata i organizacija poslodavaca, zatim pravno neobavezujućim instrumentima, kao i analizu sudske prakse u oblasti agencijskog zapošljavanja. U globalnom kontekstu, dalja analiza bi mogla da sagleda legislativu drugih država članica EU ili da istraži nove oblike rada koji su dizajnirani da odgovore na slične izazove tržišta rada. Postoji značajna vrednost sprovođenja uporednih studija širom država članica EU kako bi se stekao dublji uvid u ovu dinamiku i razumela kompleksnost transnacionalne regulative u oblasti rada.

KLJUČNE REČI

agencija za privremeno zapošljavanje, agencija za zapošljavanje, tržište rada, regulativa, fleksibilnost, socijalna sigurnost