

EN
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Answer given by Mr Schmit
on behalf of the European Commission
(8.4.2021)

EU workers have the right to equal treatment with national workers under EU law. The same rights to protection under labour law, occupational health and safety and also rules for hygiene and accommodation standards apply to national and EU agency workers in the State of employment.

Concerning posted temporary agency workers, Directive (EU) 2018/957¹ sets additional terms and conditions of employment, that must be the same as those that apply pursuant to article 5 of Directive 2008/104/EC². Member States can apply other terms and conditions to temporary agency workers in the Member State where the work is carried out. The Directive also addresses situations involving chain or double posting.

The European Labour Authority assists Member States in their effective application and enforcement of EU law related to labour mobility across the EU and the coordination of social security systems. EU workers can also contact the national bodies on free movement of workers for assistance³.

Pursuant to Directive 2008/104/EC temporary agency workers should benefit from the working conditions, including remuneration, that would apply to them if they had been recruited directly by the user undertaking to occupy the same job. Directive 91/383/EEC⁴ establishes the safety and health provisions applicable to temporary agency workers.

The Commission monitors the correct transposition of these Directives into national legislation. It is for the Member States to ensure that those conditions are complied with. The Commission is gathering evidence on the use of temporary agency work, particularly in the context of cross-border work, and will consider the need for legislative or other action at EU level, notably a possible revision of Directive 2008/104/EC⁵.

¹ Directive (EU) 2018/957 of the European Parliament and of the Council of 28 June 2018 amending Directive 96/71/EC concerning the posting of workers in the framework of the provision of services; OJ L 173, 9.7.2018.

² Directive 2008/104/EC of the European Parliament and of the Council of 19 November 2008 on temporary agency work; OJ L 327, 5.12.2008.

³ <https://ec.europa.eu/social/main.jsp?langId=en&catId=1277>

⁴ Council Directive 91/383/EEC of 25 June 1991 supplementing the measures to encourage improvements in the safety and health at work of workers with a fixed- duration employment relationship or a temporary employment relationship; OJ L 206, 29.7.1991.

⁵ https://ec.europa.eu/info/european-pillar-social-rights/european-pillar-social-rights-action-plan_en