

Newefin

Country report of the Netherlands



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What did you do?

- Desk research: law(proposals), legal history, literature and case-law
- Interviews with:
 - Federation of Private Employment Agencies
 - Helpling (platform)
 - Trade Union FNV
 - General Employer's Association
- Planning
 - More desk research
 - More interviews

New forms of labour contracts in the Netherlands: current developments

- Social and legal discussion on platform labour
- Employers (associations): narrow the gap between flexible and permanent contracts
- Law amendment: Wet arbeidsmarkt in Balans (Labour market in balance)
 - Broadening of the chain rule (indefinite contract after three in stead of two years)
 - Same terms of employment for payroll workers as regular workers, working for the same business
 - Limitation of the permanent availability of on-call workers

Temporary Agency Work and Payrolling

- All stakeholders indicate that Tempwork is regulated sufficiently
- Supreme Court qualified payrolling as a form of temporary agency work
- Collective agreement on temporary agency work applies on payrolling
- New definition of payrolling in proposal law amendment Labour Market in Balance

On call agreements

- On-call employees need to be available all the time
- Proposal Labour Market in Balance:
 - four day period to call the employee
 - After 12 months the employer needs to offer a contract for the monthly average hours

Self-employed

- No protection of the Labour Code
- Dual system: employee or self-employed
- No collective bargaining (FNV Kiem)
- Unless false-self employed
- Coalition-agreement:
 - Employment contract for self-employed when the rate is low and:
 - The duration of the contract is long
 - The work constitutes regular business work

Platform Labour

- Employee of Self-employed?
- District Court (Deliveroo): no employment contract
- Relevant aspects (part of the ‘holistic weighing’)
 - Freedom to register whenever he wants
 - Freedom to wear his own clothes (or the clothes of competitors)
 - The right to ask someone to substitute them (without permission)
- Court: When contracts such as those used by platforms like Deliveroo are considered to be undesirable, then parliament should take steps
- Trade Union FNV: a new case against Deliveroo is pending

Opinion of social partners about platform

- Trade Unions: legal protection of platform-workers is sufficient, because they are considered as employees
- Substitution is window dressing
- Trade Union does not want a intermediate category (like the worker in England)
- Legislation on social security needs to be changed
- General Employer's association: a contract of services for every worker (with more rights)

Platform labour and collective bargaining

- No representation of platform-workers by (general) Trade Unions
- No representation of platforms by employers associations
- Opinion Trade Unions: the sectoral labour agreement is applicable

- As long as considered as self-employed → no collective bargaining possible
- Trade Union FNV: pending case against Helpling: collective agreement in the cleaning industry is applicable on helping-cleaners