Judgment of the Court of Justice of the European Union 17 March 2015, C-533/13, *President V. Skouris – Rapporteur Ó Caoimh – Adv. Gen. Szpunar – Auto – ja Kuljetusalan Työntekijäliitto AKT ry v. Öljytuote ry and Shell Aviation Finland Oy*

Reference for a preliminary ruling – Social policy – Directive 2008/104/EC – Temporary agency work – Article 4(1) – Prohibitions or restrictions on the use of temporary agency work – Justification - Grounds of general interest – Obligation to review – Scope.

Article 4(1) of Directive 2008/104/EC of the European Parliament and of the Council of 19 November 2008 on temporary agency work must be interpreted as meaning that:

- the provision is addressed only to the competent authorities of the Member States, imposing on them an obligation to review in order to ensure that any potential prohibitions or restrictions on the use of temporary agency work are justified, and, therefore,

- the provision does not impose an obligation on national courts not to apply any rule of national law containing prohibitions or restrictions on the use of temporary agency work which are not justified on grounds of general interest within the meaning of Article 4(1).

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The limiting interpretation of reviewing agency work's restrictions

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1. *Introduction*

The European Court of Justice[1] in its first ever decision (the *AKT-case*[2]) concerning the agency work directive[3] gave a soft interpretation on the obligation to review the restrictions and prohibitions of agency work. The Court assessed the scope of restrictions imposed by Member States and whether the Directive 2008/104/EC imposes an obligation on national courts not to apply unjustified restrictions. The paper explores the possible effects of the decision. The author argues that the Directive's dual aim to ensure the protection of agency workers and to establish a suitable framework for the use of agency work might lead to a similarly weakened interpretation of the provisions on equal treatment. While the EU level legislator could have chosen a huge variety of alternatives to give more strength to the provision on the review of restrictions, the paper examines the arguments which still could have led the Court to give a stricter interpretation.

2. *The Directive's aim*

From 1990 the regulatory attempts on agency work were based on a dual aim. Besides protecting agency workers and safeguarding their rights, guaranteeing the growth and development of the agency sector appeared as a coequal aim. The preamble of the Directive 2008/104/EC states – by referring to a

[1] Hereinafter: the Court.

[2] C-533/13. *Auto- ja Kuljetusalan Työntekijäliitto AKT ry vs. Öljytuote ry és Shell Aviation Finland Oy*.

[3] Directive 2008/104/EC of the European Parliament and of the Council of 19 November 2008 on temporary agency work.

set of union documents – that temporary agency work meets not only undertakings' needs for flexibility and adaptability but also the need of employees to reconcile their working and private lives, it thus contributes to job creation and to participation and integration in the labour market and helps to reduce labour market segmentation[4]. Consequently the Directive's aim is:

- on one hand, to ensure the protection of temporary agency workers and to improve the quality of temporary agency work, and

- on the other hand, to establish a suitable framework for the use of temporary agency work with a view to contributing effectively to the creation of jobs and to the development of flexible forms of working[5].

The leading aspect in the evaluation of the Directive is whether the parallel enforcement of the two aims was successful or the balance swung in favour of one or the other.

The Directive applies to all workers with a contract of employment or employment relationship with a temporary work agency who are assigned to user undertakings to work temporarily under their supervision and direction. Public, private and non-profit organisations – as agencies or user undertakings – fall under the scope of the Directive alike[6].

3. *The Directive on the review of restrictions or prohibitions*

Article 4 reflects the aim to provide a suitable framework for the use of agency work. The sector' social partners emphasised their anticipation that the EU level regulation would diminish all legal barriers of the development of agency work which was not objective, not proportionate or discriminative[7]. Thus the Directive 2008/104/EC calls Member States to review their limiting regulations on agency work. However the final text contains only very soft provisions on this procedure, especially if compared to its earlier drafts. Nonetheless Article 4 has an important message not to be underestimated. It declares that agency work cannot be held as a harmful phenomenon which is to be restricted, but on the contrary, its spread shall not be

[4] Directive 2008/104/EC, Preamble (8), (9), (11).

[5] Article 2.

[6] Article 1.

[7] Eurociett/UNI-Europa Joint Declaration on the Directive on working conditions for temporary agency workers (2008). Available at *www.eurociett.eu/index.php?-id=91*.

limited without justified reasons[8]. Restrictions and prohibitions on the use of agency work shall be the exemption and not the rule[9].

The Directive permits prohibitions or restrictions on the use of agency work only if justified on grounds of general interest. Member States were obliged – after consulting the social partners – to review any restrictions or prohibitions from this aspect and to inform the Commission of the results by 5 December 2011. If such restrictions or prohibitions were laid down by collective agreements the review could be carried out by the parties of such agreements themselves[10].

3.1. Earlier drafts, disappeared obligations

During the debate of the Directive, the representatives of Member States disagreed on the possible content of Article 4[11], which transformed the Commission's proposal to a much more flexible wording. The Commission and the sectors' social partners wanted to make the review process periodical[12], while the Parliament would have been even more specific by requiring the review of limitations in every five years[13]. The final text however limits the review to a one-time process. It is also worth attention that the Commission's original proposal required reasoning for any upheld restriction, moreover, later the amended text explicitly obliged Member States to discontinue all limitations which could not be justified on grounds of general interest[14]. While such hard obligations were left out of the final text, some Member

[8] Worth mentioning that a similar provision applies to part time work (Council Directive 97/81/EC of 15 December 1997, Clause 1) but not to fixed-term employment. This shows that in EU law agency work stands closer to part time work which also serves workers' interests than to fixed term employment which is rather favourable to employers. BARNARD, *EC Employment Law*, Oxford University Press, 2006, p. 486.

[9] DELFINO, *Interpretation and Enforcement Questions in the EU Temporary Agency Work Regulation: an Italian Point of View*, in *ELLJ*, 2011, 3, p. 293.

[10] Directive 2008/104/EC, Article 4 (1-3), (5).

[11] ZAPPALÀ, *The Temporary Agency Workers' Directive: An Impossible Political Agreement?*, in *ILJ*, 2003, 4, p. 313.

[12] COM (2002) 149 final, Article 4 (1), Eurociett/UNI-Europa Joint Declaration on the Directive on working conditions for temporary agency workers (2008). Available at *www.eurociett.eu/index.php?id=91*.

[13] The Parliament's proposal after the first reading is available at: *www.euro-parl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+TA+P5-TA-2002 0562+0+DOC+PDF+V0//EN*.

[14] COM (2002) 149 final, Article 4 (2); COM (2002) 701 final, Article 4 (2).

States called for an even softer wording[15]. Nonetheless the Commission's Legal Service made it clear early in the legislative process that in its interpretation Member States have to eliminate restrictions lacking the necessary justification on ground of general interest even if such explicit obligation does not appear in the Directive[16].

The interpretation of Article 4 raises two issues: what constitutes a restriction and what is "general interest" which could justify it.

3.2. What restrictions shall be reviewed?

Turning to the first question, the Directive 2008/104/EC is about the prohibitions or restrictions "on the use of temporary agency work". Thus the review shall be conducted from the aspect of the user company. Such limitations embrace a high variety of rules, such as the ban on agency work in certain sectors of the economy or in a given geographical area or for certain undertakings. Some states limit the maximum length of assignments or the possible reasons to hire out agency workers. The prohibition to employ agency workers during strikes or similar collective actions is also common. There are also examples to limit the number of agency workers in the user company depending on the proportion of the directly employed workforce[17]. As a contrast, the UK applied almost no restrictions on the use of agency work, thus Article 4 required no action on their side[18].

[15] AHLBERG, *A Story of a Failure - But Also of Success. The Social Dialogue on Temporary Agency Work and the Subsequent Negotiations between the Member States on the Draft Directive*, in AHLBERG ET AL., *Transnational labour regulation. A case study of temporary agency work*, Peter Lang Publishing, 2008, p. 239.

[16] AHLBERG, *op. cit.*, p. 243.

[17] EUROCIETT, *Overview on national restrictions faced by Temporary Work Agencies in the EU Member States* (manuscript), 2009, pp. 1-4; ARROWSMITH, *Temporary agency work and collective bargaining in the EU*. European Foundation for the Improvement of Living and Working Conditions, Luxembourg, 2008, pp. 25-29; 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 (hereinafter: Implementation Report).

[18] DAVIES, *The Implementation of the Directive on Temporary Agency Work in the UK: A Missed Opportunity*, in *ELLJ*, 2010, 3, p. 309. Denmark, Estonia, Ireland, Latvia, Lithuania, Luxembourg, Malta and Slovakia also reported to the Commission that no restrictions or prohibitions were in place, however in the case of Luxembourg the Commission disagreed and found restrictions to be reviewed. Implementation Report, pp. 9-10.

Thus the review's targets are the limits on agency work as a service. The conditions to set up an agency or conditions on who can be an agency worker, also the protective measures of agency workers do not fall within this sphere. In theory, it also limits the use of agency work if the national regulation applies the principle of equal treatment to all working conditions and not only to the ones defined in the Directive. However such extended interpretation shall be rejected. First, it would clearly contradict the social aim of the Directive to enhance the protection of agency workers. Second, in my interpretation these do not strictly apply to "the use of temporary agency work", or in other words to agency work as a service. Finally, such "limitations" would be easy to justify as necessary for the sake of general interest.

3.3. The justification of restrictions

As for the interpretation of the term "general interest", the Directive 2008/104/EC mentions only vague and very diverse examples but not a definition[19]. Nor the Court's case law on the limitations of the four basic freedoms could be relied upon, as the Treaty's term "public policy"[20] is clearly not equivalent with general interest[21]. Moreover, the Directive does not regulate the elimination of cross-border agency work's limitations, but it calls for the review of restrictions applicable to the inner markets of Member States. Article 4 of the Directive concerns solely internal relations where Article 56 TFEU on the freedom to provide services has no relevance[22]. Con-

[19] The Directive considers especially the following as "general interest": the protection of temporary agency workers, the requirements of health and safety at work or the need to ensure that the labour market functions properly and abuses are prevented. See Article 4 (1).

[20] Treaty on the Functioning of the European Union (hereinafter: TFEU), Articles 45 and 52.

[21] To add one more term to the kaleidoscope of EU terminology, the part-time directive obliges Member States to eliminate the obstacles on the opportunities for part-time work where it is "appropriate" (Directive 97/81/EC, Clause 5 (1)).

[22] In the AKT-case, Advocate General Szpunar also expressed that the Directive 2008/104/EC undoubtedly applies to internal situations nonetheless he concluded that the requirements regarding the justification of the restrictions referred to in Article 4 (1) shall be identical to those which apply to the application of Article 56 TFEU. He pointed out that the case law on the freedom to provide services also requires the abolition of any restriction which is liable to prohibit, impede or render less advantageous the activities of a provider of services established in another Member State where it lawfully provides similar services, even if it applies equally to domestic providers (Advocate General's Opinion C-533/13, par. 101, 105, 144-145).

sequently it is up to the Member States to define the term "general interest" and thus it is quite easy to justify their existing limitations[23].

At the end of the day, EU law obliges only to conduct a one-time review process, but its aspects could be determined on national level. As Member States enjoy high level of discretion, it is rather unlikely that the Commission would start infringement procedures on the grounds that it disagrees with the Member States interpretation of "general interest" and hold that the given limitation cannot be upheld on the grounds of the given nation's interest. I find it only probable if such national restriction contradicts of the very basics of Article 4, meaning that it is based on mere distrust towards agency work, or the debated restriction also contradicts the freedom to provide cross-border services[24].

3.4. Exceptions: where no review is necessary

There are a couple of exceptions to the review process. The first is contained in Article 4 itself: national requirements with regard to registration, licensing, certification, financial guarantees or monitoring of temporary work agencies may be upheld without reviewing[25]. This exception was added on the proposal of the Parliament, considering that such administrative rules were applicable in most Member States[26]. Such administrative conditions to

While this observation is right, I do not see any necessary links between the two separate pieces of legislation, as they apply to different situations. Nonetheless, the approach could be similar, like the Advocate General suggested, to use the proportionality test also in the application of Article 4 (Advocate General's Opinion C-533/13, par. 125-128). The Commission also remembered Member States to the freedom of services and the freedom of establishment concerning the implementation of Article 4. See Report of the Expert Group *Transposition of Directive 2008/104/EC on Temporary agency work*, August 2011 (hereinafter: Expert Group Report), p. 33.

[23] DELFINO, *op. cit.*, p. 294. As Robin-Olivier put it: "… justification […] in the hands of the courts, are like shifting sand: risky and highly unpredictable". ROBIN-OLIVIER, *A French Reading of Directive 2008/104 on Temporary Agency Work*, in *ELLJ*, 2010, 3, p. 404.

[24] This issue has already been raised in quite many cases, see for instance: C-493/99, *Commission* vs. *Germany*; C-279/00, *Commission* vs. *Italy*; C-298/09, *Rani-case*; C-397/10, *Commission* vs. *Belgium*.

[25] Directive Article 4 (4).

[26] ARROWSMITH, *Temporary Agency Work in an Enlarged European Union*, Office for Official Publications of the European Communities, Luxembourg 2006, p. 25; CONTRERAS (ed.), *The Impact of New Forms of Labour on Industrial Relations and the Evolution of Labour Law in the European Union*. Study for the European Parliament's Committee on Employment and Social Affairs, 2008, available at *www.europarl.europa.eu/activities/delegations/studies/down-load.do?file=23224*, p. 43.

set up and run an agency are necessary and proportionate to the aim of protecting the workers. Besides the Court established in as early as 1980 that given agency work's sensitive impact on the relations on the labour market and the lawful interests of the workforce concerned, the Member State in which the services are to be supplied has unquestionably the right to require possession of a licence (while respecting also the freedom to provide cross border services)[27]. Worth mentioning that the Commission's first proposal in 1982 followed a much stricter approach then the Directive adopted 26 years later: it prescribed that no agency may pursue its activities without obtaining authorisation from the competent authorities and it called for adequate state supervision[28].

Another exception is hided in the preamble, declaring that Article 4 is without prejudice to national legislation or practices that prohibit workers on strike being replaced by temporary agency workers[29]. This prohibition is essential to guarantee the effective exercise of the right to strike and it was already followed by many Member States before the adoption of the Directive[30]. Uni-Europa, the trade union of the agency work sector, explicitly pushed to insert this exception to the main text[31]. Although such request could not be fulfilled, as strike is out of the legislative competence of the EU[32]. The Commission's Legal Service also warned the social partners negotiating over the draft directive that the prohibition on the use of agency workers during strike may appear only in the preamble[33]. However, differing opinions argued that the issue here was not about strike's regulation but only a prohibition on the use of agency workers, for which the EU had regulatory competence[34].

[27] C-279/80, par. 18-20. This special character was also raised in the *Vicoplus* and *Martin Meat* cases, where the Court found compatible with EU law if EU15 countries required work permit for agency workers posted from EU10 Member States during the transitory period. See joint cases C-307/09, C-309/09 and C-586/13.

[28] COM (1982) 155 final, Article 2 (1).

[29] Directive 2008/104/EC, Preamble (20).

[30] STORRIE, *Temporary Agency Work in the European Union*, Office for Official Publications of the European Communities, Luxembourg, 2002, p. 10.

[31] *Www.uni-europa.org/*.

[32] TFEU, Article 153 (5).

[33] AHLBERG, *op. cit.*, p. 209.

[34] BLANPAIN, *European Labour Law*, Tenth revised edition, Kluwer Law International, 2006, p. 424.

A third exception is contained in Directive 91/383/EEC concerning the safety and health at work of agency workers[35]. It gives Member States the option of prohibiting agency workers from being used for particularly dangerous work and in particular for certain work which requires special medical surveillance[36]. While some Member States made use of this possibility, in others a great number of agency workers are employed even in the most dangerous sectors[37].

3.5. Summary: soft obligations, soft interpretation

To sum it up, Article 4 means no real harmonisation of the possible restrictions on the use of agency work, as Member States enjoy broad discretion to uphold those with reference to the general interest. The Directive merely calls for a one-time review of the national law and to report its outcome to the Commission. Such softly worded text further weakened by exceptions calls only to change the out-dated hostile or cautious attitude towards agency work.

The vague wording made social partners to start firm lobbing for a beneficial interpretation of Article 4. Eurociett – the EU level organisation of agencies – emphasised that unjustified restrictions need to be eliminated[38]. while trade unions took the opposite view and expressed that there is no such obligation stemming from the Directive[39]. Nonetheless it seems that Member States followed the softer interpretation which led the Commission – with some reprimand – to conclude in the Implementation Report that most Member States provided only very general justifications for restrictive

[35] 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.

[36] Directive 91/383/EEC, Article 5 (1).

[37] Royo, Contreras, *Study to analyse and assess the practical implementation of national legislation of safety and health at work: 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. Final Report*, Labour Asociados S.L.L., 2006, pp. 45-47.

[38] Eurociett Position Paper on the Transposition of EU Directive 104/2008/EC on temporary agency work (2011). Available at *www.eurociett.eu/index.php?-id=91*.

[39] Warneck, *Temporary agency work-guide for transposition at national level*. European Trade Union Institute, Report 117, pp. 20-21; Expert Group Report, p. 31.

provisions on agency work in force, even when the Commission asked for complementary information[40]. BusinessEu-rope and Eurociett complained that a substantial number of unjustified restrictions remained in place in some Member States, or had even been introduced recently. In the view of BusinessEurope, the Directive needed not revision, but proper implementation of its Article 4 in Member States where unjustified barriers to the use of agency work remain in place[41].

The agency work sector closely watched the AKT-case which gave the possibility for the Court to close the unsettled debates on the interpretation of Article 4.

4. *The AKT case*

The facts of the case are the following. A Finnish trade union started court proceedings against an employer alleging it used agency workers in a way which was contrary to their collective agreement. The relevant agreement limited to use of agency workers to urgent or extraordinary situations, however the union argued that the employer employed agency workers permanently and continuously to perform the exact same tasks as performed by its own workers. The employer contended that the applicable collective agreement is not in conformity with Article 4 of the Directive 2008/104/EC as it contains prohibitions and restrictions of agency work which cannot be justified on the grounds of general interest, as prescribed by the Directive, thus it shall not be applied. The Finnish court turned to the Court, in essence referring the question whether Article 4 must be interpreted as laying down an obligation on the national courts not to apply any rule of national law containing prohibitions or restrictions on the use of agency work which are not justified on grounds of general interest.

Apparently, the issue at stake was whether the Court would satisfy the request of the agencies' organisations and follow the Legal Service's strict interpretation to accept that there is an inherent, not expressed obligation to discontinue unjustified restrictions, or stick to the soft wording of the text and understand it as a sole procedural provision. While the Advocate General

[40] Implementation Report, p. 10.
[41] Implementation Report, p. 18.

went even further, and argued that Article 4 has a direct effect, the Court ruled otherwise. Nonetheless it is rather edifying to compare their contrary reasons.

Advocate General Szpunar launched his reasoning with the literal and teleological interpretation[42]. He understood the wording "restrictions […] shall be justified only" meaning that unjustified limitations are prohibited and are incompatible with EU law. He also added that if the provision were silent on the compatibility of restrictions with EU law, the phrase of general interest would be devoid of meaning and the whole review process would lose its essence. Besides, the Advocate General referred to the dual aim of the Directive which are complementary and cannot be separated. He pointed out that Article 4 could not assist in the achievement of the objectives of the Directive if it did no more than impose a simple obligation on the Member States to identify obstacles to agency work, without stipulating in any way what consequences flow from those obstacles. Moreover, the Commission otherwise has the necessary competence to collect information on agency work's limitations in national laws, it would not require an explicit authorisation in the Directive[43]. Finally, the Advocate General was on the opinion that restrictions on the use of agency work which are not justified on grounds of general interest shall not be applied by national courts.

The Court however found that Article 4 is addressed solely to the competent authorities of the Member States and not to national courts. The obligation to review the limitations and to inform the Commission of its results is imposed on the national authorities. Nonetheless, Member States could have been obliged to amend their national legislation on agency work if the review reveals unjustified restrictions. However, the fact remains that the Member States are, to that end, free either to remove any prohibitions and restrictions which could not be justified or, where applicable, to adapt them

[42] See especially Advocate General's Opinion C-533/13, par. 27-28, 32, 36, 38-39.

[43] It is interesting how the Advocate General – to support his opinion – referred to the preparatory documents of the Directive and how he explained the elimination of stricter obligations from the text. He argued that Member States did not intend to soften the obligations concerning the review of restrictions. Instead, the Council removed those because the prohibition on unjustified restrictions already appeared in Article 4 (1), which remained unchanged (Advocate General's Opinion, C-533/13, par. 46-47). I disagree with this this narrative as the long-drawn legislative process rather shows Member States' deliberate escape from unwanted obligations.

in order to render them compliant. In the Court's reading Article 4 (1) limits the scope of the legislative framework open to the Member States in relation to prohibitions or restrictions on the use of agency workers and not as requiring any specific legislation to be adopted in that regard. Consequently, the provision does not impose an obligation on national courts not to apply any rule of national law containing prohibitions or restrictions on the use of agency work which are not justified on grounds of general interest[44].

5. *Aftermath of the decision*

Even though the Court pointed out that Member States are obliged to modify or delete unjustified restrictions, the proper harmonisation can be questioned only by the Commission trough an infringement procedure. National courts will still apply limits which are incompatible with EU law. As pointed out earlier, given the unclear meaning of "general interest", I find quite improbable – albeit important, as I argue below – that the Commission would use its limited resources to bring Member States to Court to find out whether assignments limited to six months or a ban on agency work in the building industry could be underpinned by the general interest or these are unjustified restrictions. Nevertheless, now the agency work sector can only limitedly rely on EU law to achieve further liberalisation of their business on national level.

Moreover, it is again only in infringement procedures where the Court could touch upon the merit of a case concerning Article 4. That is to establish if a restriction is necessary for the proper function of agency work or not. The present case raised the core question on agency work's role: to what end could it be used as a flexible work arrangement to cope with unexpected need of workforce or other extraordinary situations and when it is used solely to escape the obligations stemming from the traditional, open-ended employment relationship. Neither the Court could assess this question nor will the Finnish court[45]. Nonetheless, I find it very important for the Com-

[44] C-533/13, par. 28-32.

[45] Nonetheless, the Advocate General in his opinion made some very important points on this question which I highly agree with. The opinion emphasised that agency work is not regarded as a substitute for stable forms of work and such relationships are maintained "temporarily" thus it is not appropriate in all circumstances where staffing needs are permanent.

mission to refer cases to the Court concerning the proper harmonisation of Article 4 to reach decisions which would highlight agency work's proper function as understood in EU law.

However, in my opinion there is nothing in the AKT-case for which the Court could be incriminated. One cannot blame jurisdiction for the faults of legislation. It is enough to think back the alternative – neglected – proposals for Article 4 which could have given more strength to the obligation to eliminate unjustified restrictions on the use of agency work. The softly worded text of the Directive simply did not able the Court to rule otherwise. However, the Advocate General's concerns on the efficiency of the Directive 2008/104/EC are still there to make one wonder. Now it seems that the whole review process has lost "its essence". Especially, the Directive's dual aim to ensure the protection of agency workers and to establish a suitable framework for the use of agency work might lead to a similarly weak interpretation of the provisions on equal treatment. Article 5 of the Directive contains alike vague concepts and terms as the provision on the review of restrictions. One might be concerned that if the Court wants to keep balance between the two pillars of the Directive, it cannot give more teeth to the principle of equal treatment than it did in the present case to Article 4. The Directive does not call for equality of agency workers as a principle, but instead such equality is rather limited. First, it applies only to basic employment and working conditions, second, a long list of possible derogations is offered to Member States to further limit its scope. Equality though cannot be constrained otherwise it is inequality. Still such limited equality rights might be further weakened by the Court's future interpretation. To mention some examples: what preventions are to be offered against misuse in Member States which apply one or more derogations, what is to be considered an adequate level of protection of workers if a collective agreement deviates from the principle of equality, what is to be understood as permanent employment and pay between assignments to put aside equality from the first day of assignment, etc.

The Commission concluded in its implementation report that Article 4 has served, in the majority of cases, to legitimate the status quo, instead of

The Advocate General concluded that the use of agency work must not have a detrimental effect on direct employment but must, on the contrary, be able to lead to more secure forms of employment (Advocate General's Opinion C-533/13, par. 110, 112, 120).

giving an impetus to the rethinking of the role of agency work in modern, flexible labour markets[46]. After the AKT-case it seems even less likely that the Directive 2008/104/EC would lead to any more significant effects in this field.

Key words

Agency work, review, restrictions, prohibitions, obligations.

[46] Implementation Report, p. 19.