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# Labor leasing: economic theory, EU and Russia experience

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## INTRODUCTION

With the need in flexible business management getting acute, contingent employment comes into focus. While being widely spread all over the globe it has not been recognized in Russia for quite a long time. Today, analysts of the Russian labor market predict that this employment scheme awaits grand future. Indicative of a high demand for contingent labor in Russia is its dynamic year-on-year growth.

At the same time, the use and development of contingent employment (or labor leasing) is hampered by a number of factors. Still unclear are the mechanisms of the contingent employment's parties' interaction, their rights and obligations, etc. There are also problems with regulation of employment agencies' activities, and how these can be better capitalized on in pursuing the recruitment policy. As it stands now, the Russian labor code does not provide for the use of contingent labor, nor does it ban such a practice. All this significantly reduces the efficiency of labor leasing in Russia.

In 2004, at the parliamentary hearings on the prospects of ratification of ILO Convention No. 181 and regulatory matters pertaining to labor leasing the need in the development of the Federal Law "Protection of the Rights of Employees Hired by Private Employment Agencies for Leasing Labor to Third Parties" was spelled out.

This said, it should be emphasized that the development of the labor leasing legislation is impossible without an in-depth and comprehensive economic analysis of this phenomenon. Presently, nothing is being done to this end at the Russian market whilst the information on labor leasing is mostly fragmentary and non-comparable. Besides, prerequisites to start working in this direction are yet to be defined. There are still gaps in the understanding of theoretical, methodological, economical, statistical and econometric aspects of labor leasing. The need to bridge those gaps along with the laying of theoretical and methodological basis for such

an analysis and review of the local experience and international best practices in contingent employment have made the subject of this paper.

Here, we will discuss reasons for and milestones in the development of contingent employment and what actually stands for this definition. Demand for the recruitment agencies' services will be analyzed from the economic theory's perspective.

Considering the relative novelty of this phenomenon for Russia, much attention will be given to the review, critical analysis and adaptation of the European best practices on the subject matter. This problem attracts intense interest in the EU countries which have already accumulated significant experience in the regulation of the employment agencies' activities. On this basis, we will define the scale and major constituent elements of the labor leasing institutional regulation in the EU.

Significant attention is attached to the evaluation of employment agencies' activities in the Russian market and the key trends taking shape in this field. Both open publications and results of the author's own research have been used for these purposes. Proceeding from systematization and adaptation of the international best practices and based on press publications and results of the proprietary pilot study, recommendations to regulate labor leasing matters have been developed and presented in this paper.

As this study is the first in a series of reports dedicated to the issues of contingent employment it covers a relatively large range of problems pertaining to this phenomenon. At the same time, theoretical and methodological issues require a more in-depth and detailed analysis which will be performed in the course of our further research.

## **1. HISTORY AND ECONOMIC THEORY OF CONTINGENT EMPLOYMENT**

It would be fair to say that contingent employment is a relatively new concept not only in Russia but in other countries as well. New or not, once created, contingent employment technologies have been intensively developed to become widely spread in many countries today. Institutional regulation of matters pertaining to contingent employment does not currently pose an insurmountable problem for those countries that ratified ILO Convention No. 181, Private Employment Agencies. However, practical experience regarding labor leasing in various countries is indicative of the fact that apart from country-specific differences and specificity of relationships arising in this sphere, still little is known about theoretical aspects of this employment technology.

### **1.1. DEVELOPMENT OF NEW EMPLOYMENT TECHNOLOGIES**

Demand for temporary personnel was first felt acute in the US back at the beginning of the last century: in the 1920s and the 1930s trade unions were seeking workers to do seasonal jobs. Although, labor leasing as a concept in the US can be traced back to the sixties, the first recruitment agencies (Manpower, Kelly Services) were incorporated much earlier - in 1945-1947.

The reason behind the emergence of the labor leasing concept was the specificity of the then federal tax legislation whereby the companies through applying the labor leasing technologies could use more beneficial pension insurance arrangements, especially for their top managers. Despite the fact that the respective provisions in the US legislation were rescinded in 1982 due to their recognition as being conducive to tax evasion, labor leasing technologies have been brought to life. These techniques have been further developed while employment companies offering such services have extended their reach in a bid to cover the entire HR management business.

At the initial stage, employment agencies serviced small enterprises by outsourcing for a fee an HR function. For instance, if a firm does not have enough specialists, these could be temporarily loaned by the employment agency. The most frequently outsourced functions were courier services, security, office cleaning, etc. Over the years employment agencies have significantly expanded their business. Today, annual sales at the market of HR recruitment services exceed \$250 billion.

This is to a large extent the result of a step-by-step reorganization over the period 1950-1990 of the regulatory base for such business activity as labor leasing services. The regulatory development has culminated with the adoption of Convention 181 and the approval of Recommendations 188 concerning private employment agencies in 1997 at ILO's 85<sup>th</sup> session.

Today, labor leasing industry is growing at an average rate of 20-30% per annum worldwide. Annually, the number of companies specializing in labor leasing increases 1.5 times, whilst their aggregate annual sales exceed US 60 billion. Approximately 1/3 of the sales are accounted for by the US employment agencies. In the USA, over 2000 companies offer labor leasing services accounting for 27% of the entire US HR market. Employment agencies offering labor leasing services provide jobs for 10 million in the US and 7 million people in the EU. Leaders among the European countries by the number of employees working under contingent employment contracts relative to the total number of workers are Ireland, Italy and Greece (Table 1).

International experts on employment treat the growing scale of labor leasing differently. Its proponents note that labor leasing enables employer to promptly replace resources non-available due to various reasons (sickness, vacation, business trip, etc.), flexibly change (upsizing/downsizing) the number of workforce to adjust for changes in market demands (e.g. sales peak) acquire in its disposal necessary number of workforce for specific production assignments (urgent or extraordinary orders, seasonal work), optimize payroll costs, etc. If necessary,

enterprises may outsource some of its personnel and lend them to an employment agency which in this case assumes the functions of an employer.

Table 1

**WORKERS IN THE EU EMPLOYED UNDER LABOR LEASE CONTRACTS**  
(in % to the total number of employed workers)

<b>Countries</b>	<b>%</b>
Austria	1.7
Belgium	2.6
Germany	0.6
Denmark	0.9
Spain	2.4
France	3.3
Greece	4.4
Ireland	5.5
Italy	5.0
The Netherlands	2.5
Portugal	0.4
Sweden	0.5
Finland	0.3
The UK	2.3
The EU	2.3

Source: Third European Survey on Working Conditions, 2000.

At the same time, there are certain drawbacks hardly unavoidable under such employment arrangements. Experts admit that labor leasing may provide employers with a unique opportunity to save costs on payroll and social contributions, divide personnel, strengthen workers exploitation, evade commitments imposed by labor legislation and collective bargaining agreements, etc. The chief argument against labor leasing is that loaned personnel may be subject to discrimination and stripped (completely or partially) of social security. Advocates of this viewpoint substantiate by referring to offences committed in the area of labor leasing in the developed Western countries with their solid legal

remedial and regulatory oversight base and the refined over the many years social and labor relations.

But for all contradictory attitudes towards labor leasing, these practices are being more and more expanded worldwide, including Russia. Demand for contingent labor was first being shaped at the Russian labor market primarily thanks to enterprises with foreign capital and only then had Russian companies started to capitalize on this employment form (e.g. OAO Novomoskovskbytchim, IKEA chain, Renaissance Capital, SIDANCO Oil Company, etc). Accordingly, the first consumers of this type of HR services at the Russian labor market in the early nineties were foreign companies. Demand for leased labor acquired a massive scale immediately in the wake of the 1998 financial crisis. Starting 2001, it has risen in the order of 50% to 70%. Today, demand for contingent labor at the Russian labor market is estimated at \$80 million p.a.

Despite visible success labor leasing services have not acquired full legal status in Russia. The use of contingent labor is very much hampered by the imperfection of the Russian laws, specifically the lack of special legislation regulating the use of contingent labor. Besides, while the new Tax Code includes an article dedicated to 'services of temporary personnel provision' the Tax Code does not contain any mention thereof. In this situation many companies shun using employment schemes outside the legal field of the labor code.

As for Russian companies this type HR services is relatively new, leadership in the use of contingent labor goes to foreign companies. Over the last 5 to 10 years foreign companies have retained their position as the key players providing labor leasing services on the Russian market (Table 2).

Table 2

### Key Players on the Russian Labor Market

Employment agencies	Performance in Russia
Manpower Inc.	Provided jobs to 1,575 leased personnel over nine months of 2003
Kelly Services	Over the last two years the share of requests from Russian companies in the labor leasing order book has risen 6 times
Coleman Services	In 2001, clients from regions in Russia and 'near abroad' that used leased labor accounted for approx. 40 % of the total number

Source: author

Conducive to the development of labor leasing in Russia will be Russia's ratification of ILO Convention No. 181, Private Employment Agencies, along with the adoption of the Federal Law, "Protection of the Rights of Employees Hired by Private Employment Agencies for Leasing Their Labor to Third Parties". However, parliamentary hearings on the "Prospects of Russia's Ratification of the ILO Convention No. 181 on Private Employment Agencies and the Problems of Labor Leasing Regulation" held in the State Duma of the Russian Federation on May 17, 2004 did not come up with any positive results whilst the Draft Law Concerning Protection of the Rights of Employees Hired by Private Employment Agencies for Labor Leasing to Third Parties" is yet to be finalized.

It took ILO quite a long time to formulate its attitude towards private employment agencies (offices) and until recently it had not existed in a form of the established conception.

For instance, ILO Unemployment Convention No. 2 of 1919 stipulated creation of free government employment offices with the government overseeing their work, while the ILO Recommendations No.1 (1919) concerning unemployment effectively banned employment agencies "that charge fees and engage in activities with a purpose of deriving profit".

However, already in 1933 the General Conference of the International Labor Organization convened in Geneva by the Administrative Council of the

International Labor Bureau for its 17<sup>th</sup> session, passed a resolution to adopt proposals on fee-charging employment agencies (ILO Convention No. 34).

Sixteen years after, in 1949 ILO Convention No. 34 was revised and superseded by the new ILO Convention No. 96 to deal with fee-charging employment agencies. This Convention which appended Convention of 1948 on employment services stipulated that each Member of the Organization in whose respect the above Convention remained in full force and effect would support and secure government free employment service on the strong belief that such service had to be non-discriminatorily accessible to all categories of employees. Accordingly, in 1949 there were outlined basic principles of the modern policies on the labor market whereby countries may at their discretion elect to either allow or ban fee-charging employment agencies and select the most appropriate type of control over their activities.

In 1997, as a result of the significant growth of private employment agencies and formidable changes in their operating environment, the ILO Convention No. 181 together with the Private Employment Agencies Recommendations No. 188 was adopted. This new Convention revised Convention of 1949 on fee-charging employment agencies. It reflected the need to resolve the problems that had arisen over the past years, first of all, the need to facilitate labor markets' functioning and define a role which given the present day labor market environment private employment agency may assume. This Convention did not leave unanswered the issues of employees' protection against employers' abuse. Convention 181 recognizes the need to secure the right of association and promote collective bargaining and social dialogue as an integral part of the labor relations.<sup>1</sup>

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<sup>1</sup> Noting the provisions of the Employment Service Convention, 1948, and recalling the provisions of the Forced Labour Convention, 1930, the Freedom of Association and the Protection of the Right to Organise Convention, 1948, the Right to Organise and Collective Bargaining Convention, 1949, the Discrimination (Employment and Occupation) Convention, 1958, the Employment Policy Convention, 1964, the Minimum Age Convention, 1973, the Employment Promotion and Protection against Unemployment Convention, 1988, and the

Pursuant to Article 1.1 of ILO Convention No. 181, Private employment Agencies<sup>2</sup> may be any individual or legal entity independent from government authorities that can provide at least one service at the labor market. The purpose of private employment agencies according to Article 5.2 of Convention 181 is the "provision of services designed to assist the most disadvantaged workers in their jobseeking activities".

Accordingly, the services provided by private employment may include according to Article 1.1 of Convention 181 the following:

a) services for matching offers of and applications for employment, without the private employment agency becoming a party to the employment relationships which may arise from them;

(b) services consisting of employing workers with a view to making them available to a third party, who may be a natural or legal person which assigns their tasks and supervises the execution of these tasks (in this instance the private employment agency becomes a party to the employment relationships);

(c) other services relating to jobseeking, determined by the competent authority after consulting the most representative employers and workers organizations, such as the provision of information, that do not set out to match specific offers of and applications for employment.

To protect the rights of leased employees Article 2 of Convention 181 "After consulting the most representative organizations of employers and workers concerned, a member-state may:

(a) prohibit, under specific circumstances, private employment agencies from operating in respect of certain categories of workers or branches of economic activity in the provision of one or more of the services referred to in Article 1, paragraph 1;

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provisions relating to recruitment and placement in the Migration for Employment Convention (Revised), 1949, and the Migrant Workers (Supplementary Provisions) Convention, 1975

<sup>2</sup> Hereinafter, the term 'employment agency' will be used.

(b) exclude, under specific circumstances, workers in certain branches of economic activity, or parts thereof, from the scope of the Convention or from certain of its provisions, provided that adequate protection is otherwise assured for the workers concerned.

Despite the dynamic growth of employment agencies' services at the Russian labor market and demand for flexible regulatory tools given the current situation, Russia has not yet ratified No. Convention 181, Private Employment Agencies. Although in the course of negotiations of the General Agreement for 2005-2006 between the all-Russia trade union associations, All-Russia employers' associations and the government of the Russian Federation the employers proposed validating issues of leased labor (temporary employees) provision including *inter alia* via employment agencies.

The first examples of labor leasing regulation in Russia may rightly be the Charter of Industrial Labor (Labor Code 1913, Art. 534) and the Labor Code of the RSFSR of 1922 (Art. 32).<sup>3</sup> The distinct feature of both legal acts is that they are based on the same underlying principle: in using leased labor "responsibility is placed with the enterprise, organization or person for whom the job is carried out".

Notwithstanding the fact that as of today the legal aspects of labor leasing are yet to be finalized, in validation of labor leasing services employers may be guided by the Letter No. 15-06/37967 of the Moscow Directorate of MOTL of Russia of August 20, 2001 which says that labor leasing agreements must be treated differently from service or personnel recruitment agreements.

The former (effective until January 1, 1995) Labor Code of the RSFSR did not provide for a service agreement form. Instead, carrying out of work/rendering of services was regulated by a contract agreement. Effective from March 1, 1996 Part 2 of the Civil Code of the Russian Federation distinguishes between work execution, rendering of services and conducting scientific research, project

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<sup>3</sup> Человек и труд, 2004, No. 7, p. 86.

development and technological work. For instance, whereas work execution presupposes certain deliverables by the contracting party (company) (Art. 702 of the Civil Code), provision of services is not connected with the presentation of deliverables to the customer while the company (in our case employment agency) performs certain acts or engage in certain activities (Art. 779 of the RF Labor Code) in respect of the customer.

With Part 2 of the Tax Code of the Russian Federation in effect, organizations' activities pertaining to labor leasing is recognized for tax legislation purposes. For instance, Article 148 of the Russian Tax Code in defining the place of the sale of work (services) for the Value Added Tax (VAT) purposes specifically includes as an activity as provision of staff. Besides, Article 264 of the Russian Tax Code establishes that expenses for services involving the provision of workers (technical and managerial staff) by outside organizations for participation in the production process or production management or for the performance of other functions associated with production and (or) sales relate to other operating and sale expenses which are deductible for the employer and, hence, makes labor leasing cost attractive.

However, the lack of special legislation regulating employment agencies' activity especially that of companies involved in the labor leasing services along with the absence in the labor code of such an activity hampers development of this business. Adoption of the legislation would help to reduce transactional costs in this business area while at the same time contributing to the heightening of quality of the private agency-provided services. In so doing one should not be restricted to considering the legal aspects only but needs first and foremost to address the labor leasing phenomenon from the economic perspective. To this end, regular statistical reviews thereof are required along with methodological base and research tools to probe therein.

## 1.2. CONTENT AND ECONOMIC THEORY OF LABOR LEASING

There are several definitions which reveal the economic content of labor leasing. One of them is cited by the authors of the labor leasing regulation concept: "A specialized commercial firm (often a private employment agency) hires employees whether on a temporary or a permanent basis solely for the purpose of satisfying requests for the above employees' services coming from corporate or individual clients. Labor leasing agencies (private employment agencies) provide their employees to clients for a definite term on the basis of some form of a loan, a lease or a rent. For the employment agency, the rendering of contingent employment services is a sort of contract for personnel provision and a type of commercial activity to derive profit"<sup>4</sup>.

If more simply put, the contingent labor may be defined as a personnel finance lease i.e. a long-term lease agreement whereby the lessee pays to the lessor over a definite term a lease payment for the temporary possession and use of the services and qualifications of the loaned personnel<sup>5</sup>.

Quite often, the term 'contingent employment' is used for labor leasing services. In this case contingent employment is used to define loaning to the client by the employment agency of its employees for a relatively long period (from three months up to several years); or long-term lease of the personnel that remains on the payroll of the employment agency (the lessor).<sup>6</sup>

The contingent employment arrangements involve interaction between three parties (Fig. 1). The first party is represented by employment agencies. The second party (Fig. 1) is the corporate client/customer<sup>7</sup> that may either be an individual or a legal entity applying to an employment agency with a request to find and pick him

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<sup>4</sup> Хозяйство и право, No. 2-3, 2004.

<sup>5</sup> Website: <http://www.kadrovik.ru>.

<sup>6</sup> Отношения на время. Справочник: Рекрутмент&Консалтинг. Навигатор. 2005, p. 52.

<sup>7</sup> One may come across the following definitions: corporate user, corporate client, or customer, etc.

the required personnel. And, finally, the third party to the contingent employment arrangement is a contingent worker i.e. an individual who has applied to the employment agency in seeking a job and employment.

The mechanism of contingent employment has a number of distinct features:

First, this is a tripartite arrangement (contingent worker – employment agency; employment agency – corporate customer; contingent worker – corporate customer);

Second, the employer of the contingent worker is seemed to "split" i.e. an impression might have arisen that functions of an employer simultaneously assume the employment agency and the corporate customer although from formal perspective the employment agency remains to be an employer for the contingent worker;

Third, relationships 'contingent worker – corporate customer' are of implied character.

Employment agencies being a primary player at the contingent employment market are critical for meeting the demand for contingent labor from corporate customers.

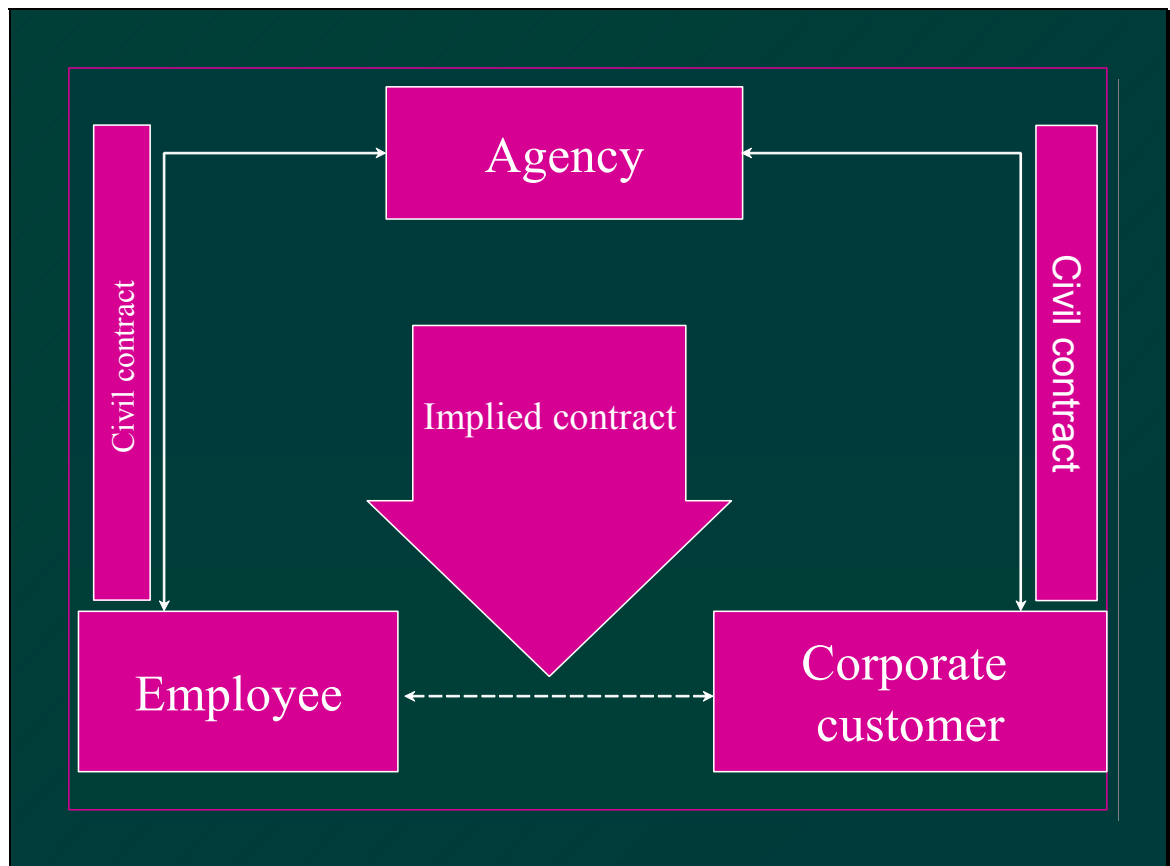


Fig. 1. Mechanism and contractual structure of contingent employment

Employment agencies' activities are critical for meeting relevant demand and changes thereof in the long-term perspective, etc. There are several theoretical explanations for employment agencies' product demand.

### **Division of labor**

The nature of the firm that Coase (1937)<sup>8</sup> tried to put in perspective is based, according to him, on the concept of non-zero transactional costs, limited rationality, etc. Speaking about the nature of the firm, it is important to answer the dilemma "to buy or to do yourself". Addressing the problem of vertical integration applicable to the nature of the firm R. Coase wrote that in our world where only production factors exist "firms will emerge all too naturally as a means to overcome barriers that excessive transactional costs put before cooperation. But as

<sup>8</sup> Coase R.H. The Nature of the Firm, *Economica* N.S., 1937.

these firms emerge and expand, transactional costs will tend to decrease since transactions between production factors will be replaced by intercompany transactions. However, intercompany transactional costs will in their turn impede the firms' further expansion. Besides, non-flexibility ... will as the firms expand, increase the costs of coordinating production factors' functioning"<sup>9</sup>.

Under this approach, a firm will strive to extend the sphere of its control to the point when it can ensure that its costs are less than the costs incurred to achieve the same results by way of market transactions or by way of operations in any other firms. In the context of contingent labor that means that when businesses make a choice between “do-it-yourself” and “buy” approaches, i.e. decide whether they should use the services of employment agencies or not, they will compare the costs of achieving the same result on account of market transactions and internal transactions. The higher the market transaction costs are, the more it is likely that vertical integration of firms will take place and the less it is likely that there will be a need in the services of recruitment agencies. However, as internal transactions will grow, primarily due to an increase of the size of the firms, vertical integration will go down, and demand for the services of recruitment agencies will grow.

Demand for the services of recruitment agencies is also determined by assets specificity. Under the concept of assets specificity, if the assets specificity is high, it is more possible that firms will be vertically integrated, and, therefore, it is more possible that demand for the services of recruitment agencies will go down. Monteverde and Teece (1982)<sup>10</sup> were the first to offer a system of empiric research of the function of the assets specificity in determining the vertical integration. The working assumption was as follows: vertical integration is more possible when assets specificity is more significant. This empirical study confirmed the hypothesis and supported the view according to which variations of assets specificity have an impact on the choice between vertical integration and open

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<sup>9</sup> Природа фирмы: Пер. с англ. - М.: Дело, 2001, p. 109.

<sup>10</sup> Monteverde K., Teece D., Supplier Switching Costs and Vertical Integration in the Automobile Industry, Bell Journal of Economics, 1982, 13, p.206.

market purchases. In the context of developing the recruitment services offered by recruitment agencies that means that it is more likely that such services will enjoy the highest demand in those market segments, for those professions, industries, etc which demonstrate low demand for specific assets, and, first of all, specific human capital.

Furthermore, in economic literature (Milgrom P. and Roberts J., 1992)<sup>11</sup> it is specified that a business clients will use the services of recruitment agencies in the following cases:

- (1) costs associated with performing the functions delegated to employment agencies are standardized;
- (2) there are several competing contingent labor services providers (employment agencies);
- (3) economy of scale takes place as a result of operations of employment agencies, which economy is so significant that it can not be surpassed by the client;
- (4) cost savings can be insured; otherwise employment agencies and their client will merge;
- (5) the process of contingent employment does not involve any specific investment, either on the part of the buyer (business client) or on the part of the seller (employment agency).

The more completely these conditions are fulfilled in any specific market segment, the higher is the demand for the services of employment agencies providing, among other things, contingent labor services.

### **Risk Sharing**

Supporters of the theory of firm (Knight F., 1921)<sup>12</sup> draw the reader's attention to the problems of risk sharing and delegation of powers between

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<sup>11</sup> Milgrom P. and Roberts J. Economics, Organisation and Management, Prentice Hall International, 1992.

<sup>12</sup> Knight F., Risk Uncertainty an Profit. Boston, Houghton Mifflin, 1921.

employees and employers. The employee is susceptible to risks which are primarily related to the instability of his income resulting from structural and market fluctuations. Employers are not susceptible to risks, therefore they can assume risks specific to employees.

In case of contingent labor an employment agency represents the employer for the contingent employee. However the employment agency is a specific employer. First, employment agencies manage a «portfolio of orders», which is formed on the basis of requirements of business clients operating in various industries and sectors of economy. Such diversity increases the potential of employment agencies as employers of contingent employees. Second, employment agencies providing contingent labor can assume the risks of both contingent employees and business clients, thus increasing the scope of risks, which finally results in an increase of the employment level and profits.

At the same time if risks are related to a macroeconomic shock covering all sectors of economy (an increase of oil prices or interest rates, etc), the risks will be relatively the same for all business clients and it will not be possible to "redistributed". As a result the demand for the services of employment agencies will drop. Therefore, demand for the services of employment agencies will increase during growth (upturn) and is more characteristic of stable economies.

### **Labor Market Flexibility**

The most evident advantage of employment agencies for corporate clients is that the latter are offered an opportunity to use "the services of contingent employees (contingent labor services)" only when they need it, which improves the cost relations between the contingent employee and the corporate client. Agency relations between the corporate client and a contingent employee are implicit. Absence of formal restrictions provides for more flexible corporate client – contingent employee relations.

It would be appropriate to compare activities contingent labor services provided by employment agencies to one of their closest "substitutes", namely fixed-term employment contracts. Let us consider advantages of agency relations as compared to fixed-term contracts.

First, some fixed-term employment contracts can transform into indefinite term contracts in the course of time, and multiple application of fixed-term employment contracts (repeated use) is often regarded as a violation of law and leads to legal sanctions. Second, some types of fixed-term employment contracts may not be cancelled at employer's will. In many cases early termination of a fixed-term contract requires substantiations increasing expenses associated with the employee-company relations. This makes fixed-term employment contracts less flexible in relation to demand as compared to the services of employment agencies.

As far as agency relations are concerned, the only restriction of employment flexibility (elasticity) in relation to the demand is the contract made between the company and the employment agency, and only in case it contains provisions restricting such elasticity. At the same time, in practice, such restrictions are not numerous. Therefore, activities of employment agencies and the contingent labor services they provide accelerate and simplify the procedures of employing and dismissing employees for the companies in line with changing demand for labor.

### **Employee/employer match**

Potential "utility" of employment agencies operating on the employment market is that they "cover the information deficit and asymmetry" between contingent employees and companies in a quicker and more efficient way: an employee has an opportunity to estimate the terms and characteristics of employment (offered position), and a company can estimate an employee's abilities and efficiency. Information and asymmetry of information on the quality of the offered position and employee efficiency is an established fact. Both employees

and employers have to tackle these problems in case of any types of contractual relations arising between them. As far as information exchange between the parties is concerned, advantages offered by employment agencies providing contingent labor services is that neither party is under an obligation with respect to continuation of employment relations in future and length of contractual relations. Such exchange is free for the contingent employee and is quite informative for the company. The effect of such information exchange is similar to that of the probation period during which the information on an employee's efficiency and the quality of positions is specified.

While employment of personnel under fixed-term employment contracts means that there are certain obligations in case of initial and repeated employment of a worker, no such obligations are associated with engagement of contingent employees via employment agencies, and, therefore, in the latter case the costs of information exchange between companies and contingent employees are reduced.

Furthermore, direct costs relating to search and probation period are lower in case the services of employment agencies are used, as compared to direct search without agency services. An employment agency is able to offer a greater number of potential employees to a greater number of companies, thus ensuring that a greater number of employees and employers match each other and the search costs are reduced.

## **2. EXPERIENCE OF EU COUNTRIES**

In spite of the fact that from year to year contingent labor is becoming more popular (which is also true for some non-European countries), some problems with its statistical evaluation remain. These problems are primarily associated with the absence of a clear contingent labor concept and reliable statistical information. For many countries contingent labor remains to be a new form of employment. Thus, national statistical committees have not yet included this type of employment in

statistical reporting, no statistical questionnaires for national labor overviews have been developed. That is why in analyzing contingent labor sector many researchers tackle the problem of low quality of available information, which leads to inaccuracy of the resulting estimates.

## 2.1. SCOPE AND CHARACTERISTICS OF CONTINGENT LABOR

Available statistical data testify to the fact that the scope of contingent labor is significant. In 1999, in EU countries 1.8 to 2.1 mln people, or 1.2% to 1.4% of the total number of all employees, were contingent workers (Table 3).

Table 3

### Number of contingent employees in EU countries (1999)

Country	Total number of contingent employees, thousand people	Share of contingent employees, %	Total number of employees, thousand people	Share of contingent labor in the total number of employees, %
Austria	24 277	1.2	36 440	0.7
Belgium	62 661	3.0	39 552	1.6
Denmark	18 639	0.9	26 923	0.7
Finland	15 000	0.7	23 180	0.6
France	623 000	29.9	226 608	2.7
Germany	243 000	11.7	357 424	0.7
Greece	0	0.0	38 348	0.0
Ireland	9 000	0.4	15 591	0.6
Italy	31 000	1.5	202 918	0.2
Luxembourg	6 065	0.3	1 755	3.5
Netherlands	305 000	14.7	75 516	4.0
Portugal	45 000	2.2	45 656	1.0
Spain	109 000	5.2	136 577	0.8
Sweden	32 000	1.5	39 976	0.8
United Kingdom (1) <sup>13</sup>	577 000	26.8	268 977	2.1
United Kingdom (2) <sup>14</sup>	254 000	-	268 977	0.9
EU total (1)	2 080 642	100	1 535 441	1.4
EU total (2)	1 777 642	-	1 535 441	1.2

Source: On employment agencies: National reports и CIETT (2000); on employment (for individuals from 15 to 64 years old for which contingent labor is the principle source of income): European Labor Force Survey.

<sup>13</sup> In accordance with the data of special national reports; includes entrepreneurs and individuals for whom labor leasing is secondary employment.

<sup>14</sup> In accordance with the data of labor survey.

The largest number of contingent employees in EU countries is registered in France – over 623 thousand people, which accounts for 30 % of the total number of contingent employees in EU countries. In terms of the scope of contingent labor France is followed by Great Britain.

The Netherlands, followed by Luxemburg, France, Great Britain and Belgium, is the country with the greatest number of contingent employees as compared to the population size. In Austria, Germany, Scandinavian and South European countries, the share of contingent employees in the total number of employed population is less significant.

Starting from 1992, the contingent labor market demonstrated high growth trends in many European countries: a five-fold increase in Denmark, Spain, Italy and Sweden, a four-fold increased in Austria. In recent years Italy and Sweden have seen quite a dynamic growth of the contingent labor market.

In the course of analyzing contingent labor from the point of view of demand and supply, characteristics of companies and employees applying to employment agencies for contingent labor services are identified. On the supply side, various characteristics of individuals are identified, and on the demand side – characteristics of companies acting as clients.

The most essential characteristic of the contingent labor is the age of employees. Contingent employees are much younger than other category employees (permanent employees, in the first place), and are very often much younger than employees working under fixed-term contracts. However, countries having statistical data for a long period of time (first of all, these are the Netherlands and France) reported "ageing" of contingent workers in the 90ies. In particular, the group of contingent employees aged below 25 became smaller.

Although the average age of contingent employees in EU countries does not exceed 32 years, the youngest contingent workers are employed in the Netherlands, and the "oldest" contingent workers – in Great Britain.

Most of leased employees in almost all European countries are male, except Scandinavian countries (Denmark, Finland, Sweden), where female labor prevails.

Experts believe that in all EU countries more contingent labor is tended to be used in the service industry and less – in the production sector. Thus, in Finland, approximately 62% of all contingent employees are working the service and trade industry.

National and ethnic composition of contingent employees is not homogeneous. Thus, in Austria, where special restrictions on the use of foreign contingent employees are introduced, only 7.2% of contingent workers are foreigners. Only 18 % of contingent employees in Germany and 14 % of contingent employees in Sweden are foreigners.

The social and economic status of contingent employees is different from employees of other employment categories. Thus, in 1999, in the Netherlands<sup>15</sup> the largest part (41%) of contingent employees lived with their parents, many contingent employees (37%) were married (informally married), i.e. lived in a family one way or another. Only every fifth contingent employee managed its own household.

In 1999, 40 % of contingent employees younger than 25 were enrolled into various educational programs, i.e. most likely they were students and were "moonlighting".

In accordance with the results European surveys, the reasons due to which companies apply to employment agencies providing contingent labor services include:

- replacement of permanent employees who are temporarily absent (27 %);
- seasonal fluctuations (23 %);
- "unexpected" production growth (21 %).

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<sup>15</sup> Pot F., Koene J. and Paauwe J., Contingent employment in the Netherlands, in Bergstroem O. and Storrie D.(eds), Contingent Labour in Europe and the US, Edward Elgar, 2002.

Services of employment agencies are increasingly used by the companies as an integral part of personnel management policies. Thus, companies use contingent labor services when operating environment of companies is quite changeable and contingent labor allows to tackle both short-term and long-term tasks.

Furthermore, the last reason (1%) why companies use the services of employment agencies is to have cheaper labor. This does not mean that clients do not strive to reduce their costs when using contingent labor services. They understand that the most significant cost reduction is ensured by a reduction of management expenses, not by salary savings. Low salaries of contingent employees do not necessarily mean low costs for the company, since it has to pay for the services of the employment agency. In Germany the cost of contingent labor services offered by employment agencies is 10%-15% of the salary of contingent employees.

At the same time, in some countries salary costs reduction is a serious reason for the companies to go to an employment agency. In many European countries contingent employees are paid worse than other categories of employees.

In accordance with surveys carried out in France contingent employees in the automobile industry are paid less even though they are trained better than permanent staff. At the same time, there is an insurance premium regulation in France, which is paid to highly skilled contingent workers for employment insecurity.

In Germany the level of salary of contingent employees is 30% lower than the salary of permanent staff working in the company.

In Spain, up to the year 1999 r. low salary of contingent employees was the reason why companies apply to employment agencies. After some provisions of law were adopted in 1999, which provided for equal levels of salaries of contingent and permanent employees, the level of expenses associated with the contingent labor services increased by 20 %. In the first months of 2000 this resulted in less frequent applications of companies to employment agencies.

In the United Kingdom the level of salary is one of the key areas of concern for contingent employees. Thus, in 1999, weekly average salary of contingent employees working full week amounted to 68 % of average weekly income of the rest of employees.

In the Netherlands salaries of permanent and agency employees working for one company and doing the same job are different.

In spite of the fact that in EU countries the law provides for "equal payment for similar work", in practice, these principles are not always complied with. When applying to employment agencies, companies try to "avoid" collective bargaining agreements: they ensure the same principles for paying salary to are applied to contingent employees and permanent employees (e.g. on the basis of the length of service). As a result it is more possible that the salary of contingent employees will be lower, since their length of service at one place is as a rule not long. At the same time, EU countries have accumulated much experience of regulating the contingent labor market and relevant institutions have been set up.

## **2.2. INSTITUTIONS AND TYPES OF REGULATING CONTINGENT LABOR**

European countries are not homogeneous in terms of the institutions regulating activities of employment agencies providing contingent labor services.<sup>16</sup> Thus, the legislation in Denmark, Sweden, Finland, United Kingdom and the Netherlands does not provide for any special requirements to employment agencies, while laws of United Kingdom and the Netherlands require that special procedures should be performed to monitor this sphere of business on a regular basis. The most important requirements imposed by the laws of EU countries on activities of employment agencies are as follows: terms for setting up business, confirmation of financial stability (financial guarantees), duration of the license, monitoring procedures and engagement of social partners in getting a license and monitoring (Table 4).

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<sup>16</sup> Hereinafter, as before, we shall mean only those employment agencies that specialize in contingent labor services.

All EU countries can be divided into three groups by the type and nature of licensing activities of employment agencies. Thus first group includes Denmark, Sweden, Finland and the Netherlands. The laws of these countries include no (or an insignificant number of) special laws regulating contingent labor activities of employment agencies. The second group of countries includes United Kingdom and Ireland. The legislation of these countries offers the most liberal treatment of employment agencies specializing in contingent labor. The third group includes Italy, Spain, Belgium, France, Germany, Austria and Luxemburg. These countries developed restrictive legislation applicable to employment agencies. Thus, employment agencies specializing in contingent labor services are not permitted to engage in such types of activities as Executive Search, its assessment of employees, etc.

Table 4

#### Legislation regulating activities of employment agencies in EU countries

Country	Licensing	Financial guarantee	Participation of social partners	Reporting	Restrictions on the number of employees
Austria	+	-	+	+	+
Belgium	+	-	+	-	+
Denmark	-	-	-	-	-
France	+	+	-	+	+
Finland	-	-	-	-	-
Germany	+	-	+	+	+
Greece	-	-	-	-	-
Ireland	+	-	-	-	-
Italy	+	+	-	-	+
Luxembourg	+	+	-	+	+
Netherlands	-	-	-	-	-
Portugal	+	+	-	+	-
Spain	+	+	-	+	+
Sweden	-	-	-	-	-
United Kingdom	-	-	-	-	-

A «+» means that the item is provided for in the legislation; «-» means that the item is not provided by legislation.

In most European countries an employment agency makes a contract with an employee and becomes an employer for the employee. However, there are

exceptions. For example, in United Kingdom and Ireland the company ordering contingent labor services may act as an employer under certain circumstances.

One of the key issues in the field of contingent employment, which was touched upon in the European social dialogue, is compliance with the principle of equal treatment of temporary and permanent employees on the part of the companies ordering the services of employment agencies. Since contingent employment is only a variety of temporary employment, among other things, this is a question of equal treatment of contingent and permanent workers.

Collective bargaining agreements in EU countries regulating employment conditions of contingent employees are still rare. This is due to both objective and subjective reasons. The latter include the fact that contingent employment sector is still new for many EU countries. Therefore, trade unions have not yet taken their position or established requirements with respect to contingent employment. Furthermore, trade unions are often opposed to employment agencies and contingent employees, so trade unions are not sure of the necessity for making agreements with such sector.

However, there are exceptions among EU countries. First of all, these are the Netherlands and Sweden. Furthermore, in countries which are traditionally characterized by "deregulation" (Italy and Spain) collective bargaining agreements in the field of contingent employment have recently been made at an increasing pace. Even in Germany, where trade unions were especially reluctant to recognize contingent employment, collective bargaining agreements in the field of contingent employment are being applied.

Objective reasons include the fact that position of contingent workers can not be the same as that of workers who have a long record of service at an enterprise and are eligible for relevant payments and benefits.

The situation is also complicated by the fact that employment agencies, by which contingent workers are actually employed and where their work record book is kept, can not grant collective rights in full to contingent employees.

At the same time, it is trade unions, rather than employers that are more concerned about equal working conditions for contingent and permanent employees. The thing is that if the equality of conditions is violated, in future contingent employment can "destroy" collective bargaining agreements and employment standards, undermining the authority of trade unions.

There is another side of the problem – an economic one. If the principle of equality is complied with, question of its appropriateness arises. The thing is that many types of employee benefits are associated with the length of service of such employee at one enterprise (length of service benefits, profit sharing plan, bonuses, social insurance, etc) and are integral part of the employee policies of most companies. Since contingent workers are usually employed during a short period of time at one enterprise, and, moreover, they are often employed by several companies at a time, the payment and bonus systems for which permanent employees are eligible are in most cases not applicable to contingent employees. However, the question of equal conditions for permanent and contingent employees is still under discussion and it is a key issue of the social dialogue between trade unions and employers (employment agencies) in EU countries.

To protect the health and safety rights of contingent employees the European Union has adopted Directive 91/383/EEC, which includes the following key provisions:

1. Prohibit unequal medical treatment and ensure that contingent employees are subject to the same work safety level as permanent employees.
2. Before starting work contingent workers must be familiarized with the safety rules used by the future employer of such worker.
3. Each contingent worker must be given detailed instructions concerning the specifics of his future work, taking into account qualifications and experience of such employee.
4. Persons responsible for labor safety at the customer company should be timely informed about hiring contingent workers.

5. The customer company must inform the employment agency about the required skills of contingent workers and the nature of proposed work. Employment agency, in its turn, must convey such information to the contingent worker.

6. The customer company bears responsibility for the working conditions and compliance with the labor safety, hygienic and health standards during the contingent worker's employment term.

As the employment agency is unable to continuously monitor the current working conditions of each contingent worker it employs, a large part of responsibility for the safety of labor and health of the contingent worker must be shared by the customer company as required by the Directive. However, many EU countries do not fully meet the conditions of this Directive.

### **Types of contingent labor regulation**

The EU countries differ by the types of regulation of contingent labor. Altogether there are three types of countries: continental, liberal (including Great Britain and Ireland) and Scandinavian countries.

#### *Continental countries*

These include Belgium, France, Italy, Luxembourg, Portugal, Spain and Germany. Common for these countries is the strict regulation of the employment agencies and temporary agency work. Contingent labor is specified as a separate form of employment both in the labor laws and in the business law. Employment agencies must have an official license and special agencies must monitor their activities. Labor laws limit the duration of employment of a contingent worker at the customer company. The legal norms regulating the flexible employment contracts of contingent workers are similar to those used for fixed-term contracts (except Germany). The legislation in these countries is explicitly protectionist

compared to the other EU countries. Although the relevant legislation is detailed and extensive, violations of the effective legislation are not infrequent.

The most rigid laws in this group of countries are the laws of Belgium, France and Luxembourg. In spite of the strict institutional regulations contingent labor in these countries has been used long enough which is evidenced by a large share of contingent workers in the total number of workers.

Leased labor has been legalized long enough but it is still subject to rigid regulation in Italy, Spain and Portugal. Apparently, this is the reason why contingent labor in these countries is less widespread than in the other EU countries. Liberalization of legislation in Italy in 1997 accelerated the growth of this sector. Deregulation in Spain occurred earlier than in Italy and the fast growth of the contingent labor sector occurred in mid 90s. Less evident is the growth of this sector in Portugal.

Collective agreements are widely used in the continental countries, and they also include contingent workers. Collective agreements have been the most developed and widespread in Belgium and France, have lately appeared in Spain and Italy and are still rare in Portugal.

Germany occupies a special place among the continental countries. The cornerstone of the German regulation of contingent labor is the duration of employment contract. In particular, according to the German rules, it is prohibited to execute a contract only for the period of fulfilling a task, i.e. the contract should be connected with time (duration of employment) not with volume of work (services). The German trade unions still have a negative attitude to contingent labor and are not prepared to execute agreements for contingent workers.

#### *Great Britain and Ireland*

Great Britain and Ireland fall in the second category of the EU countries. The labor laws of these two countries is based on the Anglo-Saxon model. Their concept of contingent labor in these countries differs from that in the other EU

countries. For example, in Great Britain contingent workers are considered workers hired by companies, employment agencies or self-employed workers. In spite of the lack of a special regulation of contingent labor certain legal acts include references to contingent workers. For instance, the British law have references to work time and Irish law refers to “justice” in employee termination.

Due to the general liberal nature of the labor laws (especially as regards labor safety) and lacking special legal acts on contingent workers, they have no legal protection in these countries.

A distinctive feature of contingent labor in Ireland is that customer companies assume many of the responsibilities (functions) of the employer and may even be defendants in unjust dismissal cases.

As it is difficult to define the legal status of contingent labor in Great Britain, it is hardly possible to know for sure the number of contingent workers. Application of different methodologies yields different figures as far as the scope of contingent labor is concerned. However, by the most conservative estimate the sector of contingent labor in Great Britain is one of the “oldest” compared to other European countries. It is not only the most long-standing, but it is also developing at the fastest rate.

In Great Britain collective bargaining agreements exist only in certain industries. The number of such industries is insignificant. Only the major employment agencies such as Manpower or Adecco, representing an insignificant share of contingent labor business on the British market, have collective bargaining agreements. In Ireland, collective bargaining agreements in the sector of contingent labor are also rare.

#### *Scandinavian countries*

Scandinavian countries (Denmark, Finland and Sweden) have a different regulating framework for contingent labor. These countries have no direct regulation of employment or temporary employment agencies. They can boast the

minimal government interference as compared with other EU countries. However, it does not mean that in these countries contingent workers are less protected as, for example, in Great Britain or Ireland. The lack of direct legal regulation (interference) is rather due to the fact that that in these countries contingent labor does not have a well-defined status as a special form of employment, contingent workers enjoy the same guaranties as the other workers. Therefore, it is implied that contingent labor is subject to all effective labor laws.

For instance, in Finland and Sweden all workers are guaranteed by law a high level of social protection (social guaranties). This is also true for contingent workers. In Sweden collective bargaining agreements also include contingent workers. Under these agreements, the workers on the payroll of employment agencies receive at least 89% of their official salary, no matter whether they are employed at the customer company or not.

The Danish labor law is less rigid. However, there are also several collective bargaining agreements which are also effective for contingent workers and include special procedures of calculating length of service of contingent workers.

Before the Scandinavian countries adopted new labor laws in the 90s contingent labor was considered illegal and employment of such workers was also illegal.

The current legislation in these countries, with a low level of government interference, ensured the dynamic development of contingent labor, particularly in Sweden.

Two countries – Austria and the Netherlands – do not fully meet the standards of the above type and have their own peculiarities in the regulation of contingent labor.

*Austria.* There is a combination of liberal regulation similar to the Scandinavian countries, Great Britain and Ireland. Austria adopted a special law on contingent labor which considers contingent labor as a special form of employment. An employment agency providing contingent workers must have a

special license. Moreover, the law requires that social partners, i.e. the employment agency and contingent workers be informed about labor conditions at the customer company. Unlike the Scandinavian countries, contingent labor in Austria was not prohibited until the 90s and the legal basis for regulation of contingent labor was laid back in 1969. Although the Austrian employment agencies do not execute full-fledged collective bargaining agreements with such workers but there have been numerous attempts to do so.

*The Netherlands.* Until 1999 The Dutch model of contingent labor fully fit in the description of the continental model. However, the recent amendments in the laws regulating contingent labor have led to the appearance of new features in this model. The Netherlands is an EU country with one of the largest share of contingent workers in the total workforce. Employment agencies in the Netherlands execute collective bargaining agreements.

Transition to the new legal regulation of contingent labor took a long period of tripartite talks and consultations which were completed in the end of the 90s. The parties in the talks elaborated the necessary institutions: laws, standards, requirements, etc. They gave rise to the Dutch Polder Model. The purpose of Polder Model is to meet the requirements of the social partners (employment agencies and contingent workers). The model is characterized by liberalization of the regulation of employment agencies: lower barriers or the entry in the sector of contingent labor, removal of excessive control over employment agencies, lifting of restrictions on provision of contingent workers to customer companies, etc. At the same time, the status of contracts was changed in line with the new model: they became less flexible.

According to the new legislations the guaranties of contingent workers have improved depending on the length of service. It was established that contingent workers are entitled to an open-end contract with the employment agency after 18 months of employment at one customer company or 36 months at different customer companies.

Adoption of the Dutch model has shown that trade unions are generally ready to come to terms with employers and increase the volume of contingent work but only for a limited period of time. Collective bargaining agreements in contingent employment are also developing which has expanded the range of regulating issues. Currently collective bargaining agreements are used in the entire sector of contingent employment in the Netherlands.

The Dutch model is considered a good example of regulating contingent employment. First of all, it supports the liberalized regulation of employment agencies adopted in the new model and makes more rigorous the procedure of executing contracts by employment agencies with contingent workers. As the Dutch model began to work quite recently (since 1999) it would be interesting to monitor its further development and results.

Still some experts are convinced that positive opinions of the Dutch model are premature. In particular, there is the problem of ensuring the rights of contingent workers depending on the length of service. The use of fixed-term contracts in many EU countries has shown that there is a risk of through repeated use of fixed-term contracts. Therefore, this requires additional monitoring to find whether the employer dismisses the employee only to hire him/her once again after a certain period of time (for example, in order to "break" the continuity of employment) or the employer hires another contingent worker. According to preliminary estimates, this type of abuse is not widespread in the Netherlands yet.

### **Contingent employment development prospects**

In the majority of EU countries employers apply similar strategies in respect to contingent employment. The main purpose is to improve the social image of contingent employment business. These efforts can be observed in those European countries which legalized contingent employment, i.e. this type of employment received public recognition and institutional support.

Over the last few years public apprehension of contingent employment has been improved in almost all European countries. The only exceptions are several countries in the South of Europe.

How can the image of contingent employment business be improved? First of all, this can be done through squeezing out unprofessional members of the recruitment market, meaning employment agencies with bad reputation. Large firms, more often than not international corporations, providing contingent labor in many countries of the world, favor a strict regulation of employment agencies and conditions of providing contingent workers in order to improve public opinion and force employment agency with bad reputation from this market. This leads to conflict of interests of large and small employment agencies providing contingent labor.

In the 1990s, most of EU countries saw an intensified concentration of contingent employment business through merger and acquisition of employment agencies. Parallel to the concentration there were rapidly developing trends of specialization and occupation of market niches. Employment agencies which specialized in provision of contingent workers expanded their activities. They also penetrated adjacent areas such as recruitment and selection of personnel, training, etc.

While almost all European employers have the same attitude to contingent employment, there is no unanimity of opinion in the other party, i.e. trade unions. The attitudes of trade unions to contingent employment in European countries differ significantly: trade unions are definitely against contingent employment in some countries while in other countries their attitude is rather favorable. However, sometimes favorable statements of trade unions about contingent employment run counter to their deeds. Moreover, trade unions in the same country may differ on the issue. This means that although trade unions have a rather favorable attitude to contingent employment, one can find directly opposite attitudes in some collective bargaining agreements. For example, in France you may hear appeals from trade

unions to prohibit contingent employment although trade unions continue to conclude collective bargaining agreements including contingent workers at customer companies. In North Europe trade unions of Belgium and Germany openly express their adverse attitude to contingent employment. For a long time German trade unions refused to conclude collective bargaining agreements involving contingent workers or even discuss contingent employment. Although trade unions in these countries preserve their negative attitude to contingent employment, certain positive changes have lately occurred in both Belgium and Germany. In Europe, the most favorable attitude to contingent employment is displayed by trade unions of Great Britain and Sweden.

### 3. EMPLOYMENT AGENCIES ON THE RUSSIAN LABOR MARKET

Employment agencies on the Russian labor market differ in the types and nature of provided services, specialization, employment areas, etc. (Table 5). There are employment agencies, recruiting agencies and agencies combining the functions of the above two types.

Table 5

#### Types of employment agencies

Classification parameters	Types of agencies
Specialization	<ul style="list-style-type: none"> <li>• Universal agencies (selection of senior executives, midlevel and lower level personnel)</li> <li>• Executive search agencies</li> </ul>
Area of employment of selected personnel	<ul style="list-style-type: none"> <li>• Specialized agencies (specialized in selection of personnel in certain areas: marketing, finance, IT, administration, etc.)</li> <li>• Universal agencies</li> </ul>
Hiring types	<ul style="list-style-type: none"> <li>• Agencies selecting personnel for permanent employment</li> <li>• Agencies selecting personnel for temporary employment</li> </ul>
Types of provided services	<ul style="list-style-type: none"> <li>• Recruitment of personnel from external labor markets</li> <li>• Head hunting</li> <li>• Executive search</li> <li>• Outplacement</li> <li>• Leasing of personnel</li> </ul>

*Source: Author*

Applicants pay to employment agencies which distribute their CVs to potential employers. Applicants either pay a fixed amount regardless of the result or a certain share of the first monthly salary (as a rule 50%) after a month of employment in the company.

Recruiting agencies (or agencies for selecting personnel) receive requests for definite types of professionals from customers. Their profits are ensured by the customer companies which pay for the selection. Recruiters' services are as a rule free of charge for applicants.

Mixed-type agencies combine the functions of the above two types. They are financed both by applicants and by potential employers.

For the purposes of this paper the terms "employment agency" and "recruiting agency" are used as synonyms. Agencies providing contingent employment are part of the community of employment agencies and represent part of the agency services market. They may form a sub-sample for a survey of the contingent labor market.

### **3.1. Quantitative analysis and development trends**

The first employment agencies appeared in Russia in the early 90s. Their first clients and at the same time providers were rep offices of foreign companies. But very soon this example was followed by: Russian organization with 100% foreign interest, Russian wholesale distributors, private domestic companies including manufacturing companies. By the end of the 90s the number of Russian employment agencies exceeded the number of Western agencies by an order of magnitude.

According to the information of the Association of Consultants for Personnel Selection (ACPS) and the surveys conducted by the Contract agency, there are currently about 760 employment agencies in Russia of which approximately 240 are in Moscow (31%), about 80 in St. Petersburg (11%), 200 agencies in the cities with over one million population (26%) and 240 in other Russian cities (32%) (Fig. 2).

According to the survey carried out by Contact in 2004, the annual volume of the Russian market of services provided by employment agencies is approximately \$136.4 mln of which Moscow accounts for more than \$86 mln (63%). The shares of regions and St. Petersburg are 26% and 11%, i.e. more than \$35 mln and \$15 mln respectively.

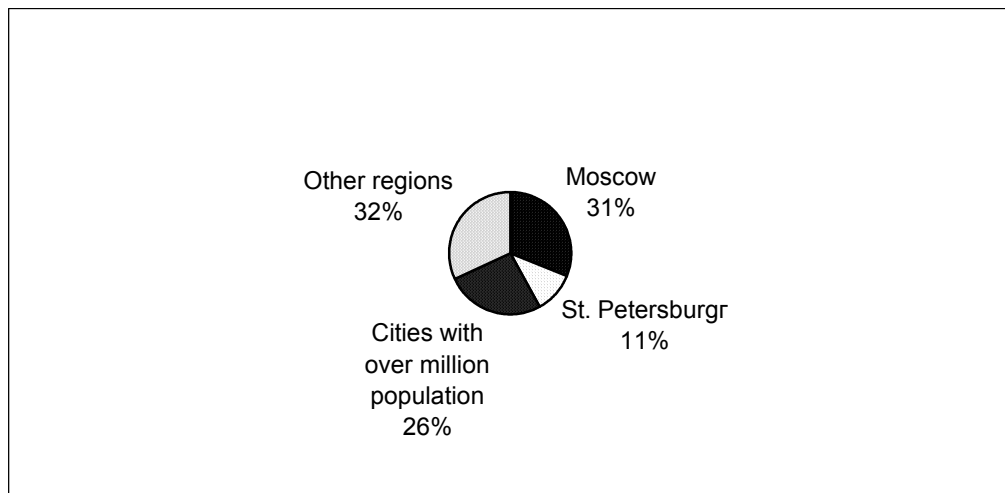


Fig. 2. Employment agencies in Russia

The market of agency relations is characterized not only by centralization (in the regions) but also by concentration. Leading agencies account for the major part of services provided by employment agencies. Currently 20 leading employment agencies occupy about 33% of the Moscow market, and the market share of four leading employment agencies is 11.2%.

Over the last 5-7 years the number of companies requesting the services of employment agencies has been growing in line with the increasing volume of services provided by these agencies. Starting with 2000, the market of service provided by employment agencies has been expanding annually by 20-25%% on average.

At present this indicator for the most developed industries is 30-35% and even 45%.

Altogether the Russian employment agencies employ about 7700 people. Almost half of them are employed in Moscow (47%). In the regions the number of personnel in employment agencies varies from 50 to 400 people per city.

A typical employment agency is not large. According to Contact, average number of personnel in employment agencies is 15 in Moscow and 12 in St. Petersburg. Most of the Moscow agencies employ from 11 to 20 personnel (38% of all agencies), less numerous are agencies with 5-10 personnel (32%) and there are enough agencies employing more than 30 personnel (19%).

In the regions most of employment agencies (63%) employ from 5 to 10 people, 17% agencies have 11 to 20 personnel, and 10% agencies have less than 5 people.

Efficiency of employment agencies depends on the volume of attracted orders and organization of labor. Average productivity per employee in employment agencies is about \$24,000 in Moscow and \$17.7 in Russia.

As employment agencies appeared on the Russian labor market quite recently their "service record" is relatively short:

- In Moscow the share of long-living agencies operating on the market more than 10 years is approximately 18%, in Russia as a whole 12%, and in the regions 9%;
- The share of employment agencies which have been on the Moscow market less than five years is rather big (49%), and the number of such agencies in the regions is almost the same;
- One third of employment agencies have been on the Moscow market from five to 10 years, however, there are even more such agencies in the regions (about 40%).

Qualitative indicators and characteristics of employment agencies such as reliability, ability to meet the employer's requirements concerning potential employees, efficient response, value for money, integrity and fairness of business, etc., can be found in the rating of employment agencies regularly published in the magazines *Dengi* (Money), *Profil* (Profile) and *Karyera* (Career).

One of the first Russian rating of employment agencies was based on survey of 66 Russian and foreign companies representing leaders of industries – General Electric, General Motors, Motorola, Pepsoco, Siemens, Vympelcom, International Industrial Bank, NIKOIL, Moscow-Efes Brewery, etc.<sup>17</sup> According to the rating, the first top ten (out of 35) employment agencies were made of:

Employment agency	Score <sup>18</sup>
1. Ancor Consulting	36,6
2. BLM-Consort	35,8
3 Kelly Services	32,4
4. Metropolis	30,6
5. TRIZA Employment Company	27,8
6. Manpower CIS, Inc.	20,6
7. Contact	18,7
8. Unistaff	12,8
9. Norman DL Consalting	11,2
10. The Russian Connection	10,8

In 2002-2003, the Personnel Management magazine interviewed 500-600 Moscow enterprises with the objective to prepare a rating of employment agencies. The participant enterprises were selected from client databases of surveyed employment agencies. By the results of interviews and taking into account the cost of services rendered by employment agencies, two groups of employment agencies were formed: the first group charging over 20%, the second one charging less than 20% of the annual salary of an applicant. The following rating criteria were applied: number of enterprises which mentioned an agency; professionalism (expediency, ethics, accuracy, flexibility, etc.); personnel quality (relevance of candidate specialists).

In the period from 2002 to 2003, predominantly foreign employment agencies made the Top Ten List (Table 6).

<sup>17</sup> Карьера (Career), November, 1999.

<sup>18</sup> The aggregate rating score obtained through summation of scores based on a number of criteria.

Table 6

**Recruitment agencies occupying leading positions in the first price category in 2002-2003**

№	Private employment agency	Number of customers to have mentioned the agency	Professionalism (expediency, ethics, accuracy, flexibility, etc)	Personnel quality (relevance of candidate specialists)
2002				
1	ANCOR	79	7,6	7,7
2	KELLY SERVICES CIS	48	8,0	7,8
3	CONTACT AGENCY	47	8,2	7,9
4	BLM-CONSORT	40	8,6	8,5
5	METROPOLIS	27	8,5	7,9
6	MANPOWER CIS	25	7,9	7,9
7	THE RUSSIAN CONNECTION	25	7,7	7,6
8	COLEMAN SERVICES	24	8,4	8,5
9	PERSONNEL EMPIRE	19	8,3	8,5
10	NORMAN DL CONSULTING	11	8,0	8,4
2003				
1	АІЕІД	104	7,9	7,8
2	KELLY SERVICES CIS	74	7,2	7,4
3	АЕІ-ЕІІНІД	48	8,4	8,5
4	АААІОНОАІ ЕІІОАЕО	44	8,1	8,0
5	COLEMAN SERVICES	37	8,0	7,7
6	GO-GETTER GROUP	37	8,7	8,9
7	THE RUSSIAN CONNECTION	34	8,0	8,5
8	ЕІІАДЕБ ЕААДІА	34	8,1	8,0
9	PENNY LANE PERSONNEL	32	8,2	8,0
10	ІАОДІІЕЕН	32	8,3	8,1

The pilot survey of employment agencies carried out in 2005 to cover a group of regions<sup>19</sup>, demonstrated that out of the whole range of services rendered by employment agencies labor leasing services are rendered only by 40, 5% employment agencies. Out of 203 Moscow leading employment agencies only 7-8% in 2005 rendered labor leasing services. Western companies were the first in the Russian labor market to offer labor leasing services; almost all of them made it into the top ten of the agency services market. The ultimate leaders to provide labor leasing services in Russia are KELLY SERVICES, ANCOR, MANPOWER CIS, Contact, COLEMAN SERVICES, etc.

<sup>19</sup> The agency sample was made of employment agencies with Internet sites and located in the following Russian regions: Moscow, Saint-Petersburg, Voronezh, Samara, Yekaterinburg, Nizhny Novgorod, Krasnoyarsk, Krasnodar. The total sample size was 111 employment agencies.

The majority of employment agencies which render labor leasing services are located in Moscow, the remaining part - in Russian regions (figure 4). Thus, the farther from the center of Russia, the least developed is the market of contingent labor. More often such services are provided in the central part of the country (45%) than in regions (38%).

Employment agencies that were the first to come to the Russian labor market and are older, more often provide contingent employment services. The majority of employment agencies included into the survey were established in 1995-2000. Meanwhile the older employment agencies created prior to 1995 provide contingent employment services more often than other agencies.

With the average age of employment agencies included into the sample of 8.5 years, the average age of employment agencies which provide labor leasing services is 9.2 years. This fact once again confirms that “older” employment agencies provide labor leasing services in the Russian labor market.

Most often contingent labor services are provided by employment agencies which are over 10 years old (48.6 %) followed by younger employment agencies of the age within the 5-10 years range (38.6 %); the youngest employment agencies (less than 5 years of operations in the market) provide contingent labor services rarely (25 %).

The stronger is the position of an agency in the labor market, the wider range of services and more reliable guarantees it can render to its clients. Employment agencies which are specializing only on labor leasing services are practically non-existent in the Russian labor market. Out of the whole range of services offered by employment agencies the following services dominate the market: recruiting, personnel assessment and training (Table 7). Contingent labor's share in the list of services provided by employment agencies is rather small (15.3%).

Table 7

### Services provided by employment agencies

Service description	%
Recruiting	63,8
Contingent labor (personnel leasing, outstaffing, etc.)	15,3
Analytical services, consulting	18,0
Educational programs, training	21,7
Personnel assessment	53,2

Source: the author

Nevertheless, such state of affairs is conditioned not by the peculiarities of the service itself but by the solidity of financial position of employment agencies. Only an insignificant number of employment agencies in the Russian labor market are capable of providing clients with the high level of guarantees, security and reliability.

The overwhelming majority of employment agencies guarantee replacement of the applicant (86.5%). Whether such service is free of charge or a paid for service is conditioned by contractual terms. Many employment agencies undertake to guarantee interests of client enterprises, particularly not to disclose their confidential information (72.1%). Few employment agencies (11.7%) provide financial guarantees including fixed cost of services, replacement of supplied personnel, preferential terms for corporate clients, etc.

Employment agencies which provide contingent labor services are characterized by sound financial footing and provision of services accompanied by a range of guarantees to comply with business standards in relations with clients, they also take care of their reputation in the labor market. If every fifth employment agency which provides contingent labor services gives financial guarantees, then among others only every 17<sup>th</sup> employment agency gives such guarantees. Employment agencies which provide contingent labor services more often are prepared to replace an applicant (91.1% and 83.3%, accordingly), more often ensure security and reliability of cooperation (77.8% and 68.2%, respectively).

Table 8

**Cost of services provided by employment agencies**

Cost range	Total	Contingent labor	
		no	yes
10-25%%	83,8%	91,5%	72,7%
25% and upwards	16,3%	8,5%	27,3%

Source: the author

At the same time many employment agencies which provide contingent labor services are located in the central part of Russia, i.e. in Moscow and St. Petersburg where the higher general price level is also affecting the cost of agency services. Meanwhile the farther from the center of Russia, the less expensive are the employment agency services. Many regional employment agencies occupy the bottom part of the price niche.

The following basic features characterize a typical employment agency which provides contingent labor services in Russia:

- it is an employment agency which entered the labor market in the beginning- middle of the 90es;
- its average age is 9-10 years;
- it provides the fullest possible range of guarantees to client enterprises which evidences the relatively high quality of the services rendered;
- usually it provides financial types of guarantees;
- its services are priced higher than services of other employment agencies.

### **3.2. RECOMMENDATIONS TO REGULATE THE CONTINGENT LABOR MARKET**

The contingent labor services market in Russia is relatively young and is still in the formation process; the business of provision of contingent labor services has not yet acquired any official institutional status and public acknowledgement. Nevertheless high development rate of contingent labor services, uncertainty of the

contingent worker status, high transaction costs are just part of the non-exhaustive list of problems which indicate the necessity to develop measures to regulate the contingent labor market.

It seems so that problems in the contingent labor sphere shall be resolved in the following areas:

1. To license operations of employment agencies and to justify costs of entry into the contingent labor sector;
2. To ensure monitoring and control over the activity of employment agencies;
3. To determine the status and rights of contingent workers.

Let us highlight the key aspects in every area.

### **Licensing of operations of employment agencies**

The Russian market lacks the procedure to license operations of employment agencies, as well as services provided by them. At the same time in European countries availability of a license is the mandatory requirement for entry of employment agencies into the labor market, especially when they are planning to provide contingent labor services. The licensing procedure is applied not only in countries with the strictest legislative regime but in the countries where the legislation applicable to employment agencies is considered to be rather liberal.

A recommendation to return in the current Russian environment to the previously applied procedure for an employment agency to obtain an appropriate license to become engaged in that type of activity may be justified from different angles.

First of all, licensing is a significant factor mostly for employment agencies with “good reputation”. Many large employment agencies advocate the necessity to introduce such a procedure to maintain the agency’s status in the contingent labor market. In addition to that, availability of the employment agency’s license serves not only as an indication for potential clients of the quality of provided

services but leads to general reduction of transaction costs in the contingent labor market.

Secondly, the licensing procedure allows setting certain parameters (standards) of operation of employment agencies. We are talking, first of all, of financial guarantees, of compliance by employment agencies with legislative regulations and labor safety requirements.

In Russia, the lack of a licensing procedure makes provision by employment agencies of financial guarantees to their clients rather an exception than a rule. Presently in the Russian contingent labor market actual financial guarantees play the role of one of the factors giving a competitive edge to employment agencies.

When considering prospects of development of the contingent labor market in Russia, it is appropriate to foresee creation of an insurance fund by employment agencies to ensure payment of salaries to contingent workers in case of an employment agency's bankruptcy. Availability of such a fund and setting of a minimal fund size should become starting points in developing criteria for obtaining licenses by employment agencies to render contingent labor services.

Besides, it is appropriate to tie licensing of employment agencies not only to provision of financial guarantees but to lack of claims (suits) initiated by judicial bodies, different types of indebtedness in relation to other organizations, lack of previous bankruptcy procedures, complaints from contingent workers, etc.

### **Monitoring and control of operations of employment agencies**

License availability should not exempt employment agencies from being subjected to control over their activities. It is necessary to monitor activities of employment agencies at the moment they receive (extend) their licenses as well as in the course of the license validity term. Thus we are talking about two types of control: current and ultimate.

The ultimate control shall mean an audit check of an employment agency's performance during a certain time period (for one year) with the objective to

confirm the possibility for the agency to obtain or extend the license to engage in provision of contingent labor services.

The European experience demonstrates that a license initially issued to employment agencies is issued for a definite term; it should either be extended or confirmed provided certain terms and conditions revealed in the course of monitoring are complied with. Authorized representatives of governmental bodies exercise control over fulfillment by employment agencies of their obligations to clients and contingent workers. Such control is related to summing up of indicators of ultimate performance by employment agencies and affects the licensing issuance procedure. In relation to Russia, it is appropriate to issue a license to employment agencies for a certain fixed term with the right to extend the initial term.

Besides the ultimate control exercised over activities of employment agencies, European countries exercise the current control. Sometimes it is defined as monitoring of current operations of employment agencies. Such monitoring is conducted regularly (on a monthly, quarterly, by-annual or annual basis), or occasionally (at random, depending on the check objectives, etc.).

The majority of European countries perform regular current monitoring of activities of employment agencies. The information submitted by employment agencies comprises information on client enterprises, on social fund contributions, copies of contracts executed with workers and client enterprises. Sometimes the reporting information submitted by employment agencies is supplemented by the information regarding levels of salaries and quantities of contingent workers, of changes in the operations and management of client enterprises, etc.

In relation to Russia it is recommended to apply the intermediate option. Employment agencies should maintain records and submit reports to tax authorities, should make contributions to social funds. In addition to that they will have to regularly submit corporate statistical information, such as the information

on the number of contingent workers, their characteristics, salary levels, movements, etc.

On top of that the RF State Statistics Committee should conduct random interviews of employment agencies. By the results of such interviews thematic reports should be prepared on the activities of employment agencies. Additionally the initiative to conduct surveys of households or to include a list of issues related to contingent labor into the structure of nation-wide household surveys (for example, RLMS) should be supported.

### **Status and rights of contingent workers**

The problem of the status and rights of contingent workers has been actively debated. The discussion is focused on the following issues:

- Should contingent workers be assigned the rights similar to the rights of staff members of client enterprises?;
- Should labor legislation provisions be applied to contingent workers?

While searching for answers to the raised issues EU member states were guided by the following uniform principle: achievement of agreements on major aspects. Nevertheless in doing that they arrived at absolutely different solutions.

The first thing participants of the contingent labor market, including the state, should agree is the issue of who is the employer of a contingent worker - employment agencies, client enterprises or both (here we talk only about one of the opinions related to splitting of employer's rights between employment agencies and client enterprises). If we consider the European experience, we can see that solutions which were realized through certain institutions were represented by all variants of answers given. In some countries contingent workers are employed by employment agencies, in other countries employer functions are assigned to client enterprises, the third group assumes that both parties play the role of an employer of contingent workers.

The most important thing here is to achieve an official agreement to satisfy all parties. In Russia this point of view is not advocated by anybody and it manifests itself implicitly. Experience accumulated by now shows that employer's functions are still reserved for client enterprises due to inertia and also due to imperfect or unavailable legislation to regulate relations in the contingent labor sphere.

However, if we look at ILO Convention No. 181, Private Employment Agencies, then, according to it, employment agencies play the role of the employer of contingent workers. In Russia this provisions has not been applied yet and not only because the Convention has not been ratified. Firstly, the status of employment agencies which hire workers for provision to third parties is not institutionalized; also their differences from employment agencies which provide agency services related to search for working places and provision of required information are not identified. Thus, employment agencies which provide contingent labor services do not differ from any other employment agencies in the Russian market, i.e. they are the business units generating revenue through provision of agency services.

Secondly, in practice the principle of synchronization of the length of service and term of a contract is adhered to implicitly. As a result of the application of that principle, contingent workers for a long period of time are assigned the status of temporary workers and their transition over to the regular employment segment becomes less probable and that leads to segmentation of the labor market. Nevertheless activity of employment agencies should facilitate integration processes and not segmentation of the labor market. Entry of a worker into the list of employment agencies should not devoid the worker from the opportunity of moving over from the temporary employment category to the permanent employment one. Otherwise activities of employment agencies with the lapse of time will further classify workers as insiders and outsiders and will provoke social tension in the labor market.

The next important aspect is the attitude of labor unions and labor collectives (labor collective councils) to employment agencies and contingent workers. Those relations encompass the whole range of problems out of which we will consider but a few.

Countries with especially strong collective and contractual regulation of labor relations advocate the necessity to include contingent workers into the payroll of client enterprises, to apply to them terms and conditions of collective agreements and internal rules and regulations. In countries with liberal regulation of labor relations the principle of application to contingent workers of rules and regulations established for staff members of client enterprises is not valid. Though in the majority of European countries the principle of equal payment of salaries to staff members and contingent workers is maintained institutionally; in practice, as experience demonstrates, this principle is not adhered to.

If we look at Russia, then according to expert assessments the salary level of contingent workers is practically at par with that of permanent staff of client enterprises.

Regarding inclusion of contingent workers into the payroll of client enterprises, it would have been appropriate to follow the approach taken by countries which introduce the so-called "trial period" (lasting from 3-10 months to several years) to determine the possibility of inclusion of contingent workers into the payroll of an enterprise. Application to contingent workers of internal rules and regulations triggers no doubts. But their coverage by the system of payments, bonuses, etc., which enjoy members of the labor collective of client enterprises depending upon the length of service (employment record) should be abandoned. The prerequisites for transition of contingent workers from the category of temporary employment into the category of permanent employment which will enable them later to enjoy length-of-service-related benefits can be created only through resolution of the synchronization problem and through gradual settlement of the issue of financial responsibility of employment agencies. In addition to that,

here one may use such approach as the aggregate accumulated work experience at different client enterprises serving as the basis for inclusion of contingent workers into the group of collective rights users.

### **CONCLUSION**

Business in Russia has been developing to operate according to the laws of the postindustrial society. The basis quality change in organization of operations of enterprises manifests itself in the shift of attention from such production factors as machinery, equipment, etc., towards the human factor. The intellectual and human capital is increasingly viewed by enterprises as the most significant company's resource which gives it a competitive edge. Treatment of personnel as a strategic asset capable of delivering significant profit becomes the passport to successful development of the company.

In this connection enterprises which strive to achieve maximum efficiency and to come ahead of the competition do their best to lure the best personnel in the market. As the number of such specialists is very limited, the enterprises are interested in developing an adequate strategy to attract personnel. Besides, due to the general economic recovery in the country the demand for personnel has been growing and the worsening demographic situation has aggravated the problem of shortage of workers. This makes it difficult to hire proper personnel and increases the demand for employment agencies' services as an alternative to independent search for personnel and employment through governmental employment centers.

The Russian market of contingent labor services is very young and is still in the formation process; business to provide contingent labor services has not acquired yet any official institutional status and public acknowledgement. Nevertheless high growth rate of contingent labor services, uncertainty of the status of contingent workers, high transactional costs are but a few reasons to necessitate development of measures to regulate the market of contingent labor services. In this connection it seems useful to study and adapt appropriate

experience accumulated in EU member-states. In those states the scale of contingent labor services exceeds Russian operations by several times, and there does not exist any uniform mechanism to regulate contingent labor. Still the established regulation mechanisms already proved themselves in practice and deserve attention of the countries where the contingent labor market is at the early stage of its existence.

The revealed areas of contingent labor regulation applicable to Russia, such as licensing of activity of employment agencies and establishment of costs of entry into the contingent labor market, organization, monitoring and control of activity of employment agencies, determination of the status and rights of contingent workers, certainly present not an exhaustive list of urgent issues. Scientific researches of contingent labor issues should continue both in the economic and institutional spheres.

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