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# Are Temporary Work Programmes for Intra EU Migrants Ethically Justified?

Kamile Botyriute \*

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## Abstract

Temporary labour migration has become a major component of global migratory flows and global economic development. The upward trajectory of temporary labour migrants points to an increasing reliance of contemporary economies on foreign temporary labour. This issue has been extensively discussed at the policy level as well as in academia. The focus, however, has been on the socioeconomic perspectives regarding the advantages and disadvantages of temporary labour migration, while little attention has been given to the normative aspects of this expanding phenomenon. This paper aims to apply arguments from liberal theories of justice to find ethical justifications either in favour of or against the expansion of temporary labour migration, specifically in the intra-EU temporary labour migration setting.

**Keywords:** *Temporary labour migration; Global Justice; Individual Agency; Political Philosophy; Europe.*

## 1. Introduction

Temporary labour migration has become a prominent global phenomenon, widely discussed at the policy level as well as in academia. Increasingly, the problems of temporary work migration are considered separately from the general topic of migration, in order to address them. It is widely agreed that temporary labour migration entails a specific form of migration, whereby individuals work abroad for a limited duration without the intention of settling in the host country permanently, aiming

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to reap certain benefits before returning to their home country<sup>1</sup>. Although temporary work programmes are widespread throughout the world, the precise extent of the phenomenon is unknown, and international organisations agree that there is a lack of comprehensive data on the numbers and types of temporary work schemes<sup>2</sup>.

Nevertheless, contemporary economies tend to rely on the international migrants to perform temporary, and, in many cases, seasonal work. According to the OECD data, temporary labour migration reported an upward trend that has also continued in 2019, before the global pandemic hit in 2020, resulting in reduced labour migration flows in the OECD area<sup>3</sup>. The main categories of labour migration included posted workers within the EU/EFTA, working holidaymakers and seasonal workers<sup>4</sup>. However, according to more recent estimates, the number of international seasonal workers in the OECD countries continued to grow even in 2020 and 2021<sup>5</sup>, while in 2022 temporary labour migration to the OECD countries was above the pre-pandemic levels of 2019<sup>6</sup>. The increasing instances of temporary labour migration, in addition to economic and policy concerns, also raise the question of whether these programmes are ethical enough to continue expanding them.

Bearing in mind that the circumstances of temporary work programmes for international migrants vary significantly between regions and countries, this paper will focus on intra-EU temporary labour migration. According to Nuti<sup>7</sup>, intra-EU temporary labour migration has a distinctive characteristic as compared to different temporary work programmes across the globe. Intra-EU migration effectively includes many rights that are commonly advocated for in research into temporary work migrants,

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<sup>1</sup> F. Mieres, C. Kuptsch, *Temporary Labour Migration: Unpacking Complexities – Synthesis Report*, International Labour Organization, 2022; A. Nuti, *Temporary Labour Migration within the EU as Structural Injustice*, in *Ethics & International Affairs*, 2018, vol. 32, n. 2, 203-225.

<sup>2</sup> D. Costa, P. Martin, *Temporary Labour Migration Programs: Governance, Migrant Worker Rights, and Recommendations for the UN Global Compact for Migration*, Economic Policy Institute, 2018; European Commission, Directorate-General for Migration and Home Affairs, *Temporary and Circular Migration – Empirical Evidence, Current Policy Practice and Future Options in EU Member States*, Publications Office of the European Commission, 2011; OECD, *Capturing the Ephemeral: How Much Labour Do Temporary Migrants Contribute in OECD Countries?*, in *International Migration Outlook 2019*, OECD Publishing, 2019.

<sup>3</sup> OECD, *International Migration Outlook 2020*, OECD Publishing, 2020.

<sup>4</sup> Ibidem.

<sup>5</sup> OECD, *International Migration Outlook 2022*, OECD Publishing, 2022.

<sup>6</sup> OECD, *International Migration Outlook 2023*, OECD Publishing, 2023.

<sup>7</sup> A. Nuti, *op. cit.*

such as the importance of facilitating easier border crossings and granting temporary migrant workers the same rights enjoyed by permanent residents<sup>8</sup>. In this way, the intra-EU temporary migration model could be seen as ethically justifiable, particularly when compared with the temporary labour migration observed elsewhere. For example, a recent report by the United Nations Human Rights Office indicates that temporary migrant workers in the Asia-Pacific region are “usually excluded from pathways to permanent stay or citizenship” and even experience dire violations on human rights.<sup>9</sup> Within the EU, the borders are already open, and intra-EU migrants also have more protection and enjoy more rights as holders of EU citizenship in relation to the migrants from non-EU countries. Nevertheless, even with these rights and relatively high protection, many temporary work placements within the EU are far from being regarded as just. Media and scholarly literature suggest that temporary international workers within the EU are continuously exposed to exploitation, marginalisation, and conditions of vulnerability<sup>10</sup>, an aspect which raises policy concerns for those who want to practically improve the working conditions for the migrants within the EU as well as ethical concerns on whether these programmes are intrinsically just.

In this paper, the issues concerning temporary labour migration within the EU will be discussed, from both an empirical and normative perspective. The first section of this research will cover the empirical data and the general landscape of intra-EU temporary work programmes. The aim of this section is to see to what extent temporary work programmes participate in the labour market in the EU as well as whether the numbers of temporary labour migration programmes change over the years. The remaining sections will be devoted to the normative approach towards temporary labour migration, referring to the most common and applicable claims for distribution and recognition as presented by global justice proponents as well as to individual agency and the ability to voluntarily construct one’s life plan – another important liberal requirement for justifiable policies and actions concerning labour migration. To address these normative claims, the reasoning will be based on scholarly works

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<sup>8</sup> Ibidem.

<sup>9</sup> United Nations, ‘*We Wanted Workers, but Human Beings Came*’: *Human Rights and Temporary Labour Migration Programmes in and from Asia and the Pacific*, United Nations Human Rights Office of The High Commissioner, 2022.

<sup>10</sup> Focus on Labour Exploitation, *The Risks of Exploitation in Temporary Migration Programmes: A FLEX response to the 2018 Immigration White Paper*, 2019; D. Sporton, ‘*They Control My Life: the Role of Local Recruitment Agencies in East European Migration to the UK*’, in *Population, Space and Place*, 2013, vol. 19, 443-458; A. Nuti, *op. cit.*

and notions presented by Lenard and Straehle<sup>11</sup> as well as Ottonelli and Torresi<sup>12</sup> while also referring to other research and policy studies by international organisations and media news.

## 2. Temporary Work Programmes within the EU

The European Union is characterised by the right of its citizens to freely move and reside in any of the Member States. Among other purposes of free movement, pursuing better employment opportunities is one of the most common. Mobility within the European Union is considered highly beneficial for strengthening the efficiency of European labour markets by meeting the demands of one country while using the supply (or oversupply) of another<sup>13</sup>.

Temporary labour migration programmes (TLMP) (sometimes also referred to as circular or guest worker programmes) are widespread throughout the EU. At the individual level, these programmes are aimed at “pursuing the benefits of working in a host country for a time before returning to one’s country of origin”<sup>14</sup>. In the institutional context, these programmes are established in order “to add workers temporarily to a country’s labour force without adding permanent immigrants to the population”<sup>15</sup>. Initially, these definitions presuppose that both sides are gaining many benefits from TLMP. The migrants have opportunities to pursue financial benefits while working in a host country that would perhaps be unavailable in the home country. The governments of the hosting countries, on the other hand, can fill labour shortages in different sectors without facing an increase in the numbers of permanent migrants<sup>16</sup>.

The empirical data shows that these benefits are widely acknowledged within the EU. According to International Labour Organization (ILO), while the majority of temporary labour migrants working in the EU comes from non-EU states, there were still an estimated 1.6M persons in 2020 who held EU citizenship and temporarily worked outside the

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<sup>11</sup> P. T. Lenard, C. Straehle, *Temporary Labour Migration, Global Redistribution, And Democratic Justice, in Politics, Philosophy & Economics*, 2012, vol. 11 n. 2, 206–230.

<sup>12</sup> V. Ottonelli, T. Torresi, *When is Migration Voluntary?*, in *The International Migration Review*, 2013, vol. 47 n. 4, 783–813.

<sup>13</sup> A. Nuti, *op. cit.*

<sup>14</sup> *Ibidem.*

<sup>15</sup> D. Costa, P. Martin, P., *op. cit.*

<sup>16</sup> P. T. Lenard, C. Straehle, *op. cit.*



country of their usual residence<sup>17</sup>. These numbers are also an outcome of an upward trend that increased by 20% over a five-year period, demonstrating an increasing number of intra-EU temporary labour migration in the region. Based on the Eurostat<sup>18</sup> data in 2020, the highest share of temporary employees born in another EU Member State in the total country's workforce were observed in Spain (27.0%), the Netherlands (19.3%) and Italy (18.3%). In comparison, Central and Eastern Member States recorded the lowest shares of foreign-EU temporary workers. Although the COVID-19 pandemic resulted in a slight decrease of intra-EU temporary workers within the region, some countries recorded an increase in the share of temporary employees born in another EU Member State in 2022, including the Netherlands (28.6%), Croatia (26%) and Finland (18%)<sup>19</sup>. While the distribution of temporary workers may depend on the laws, compensation and general working conditions in each Member State, the data illustrate the extent and importance of temporary work and temporary labour migration for today's European labour markets. A high share of temporary work whether among employees born in another EU Member State, employees born outside the EU and native-born employees, together with other forms of non-standard employment signify new and specific economic relationships, sometimes also referred to as the gig economy, characterised by a fragmented work environment, short-term contracts, lower labour costs and erosion of long-term individual life plans.

EU labour law directives (such as the Working Time Directive or the Work-Life Balance Directive and others), which have been gradually adopted over a span of nearly twenty years through such frameworks as Treaty of Lisbon, cover two main policy areas: working conditions and informing and consulting workers. Most of the directives are aimed at establishing minimum standards for working conditions and equal treatment of workers, while other instruments aim to inform workers

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<sup>17</sup> International Labour Organization, *Fair employment conditions for migrant workers in the EU—How to provide better support services for migrants?*, 2020, [https://www.ilo.org/budapest/whats-new/WCMS\\_757579/lang--de/index.htm](https://www.ilo.org/budapest/whats-new/WCMS_757579/lang--de/index.htm) (Accessed April 17, 2024).

<sup>18</sup> Eurostat, *Migrant integration: temporary employment*, 2021, <https://ec.europa.eu/eurostat/web/products-eurostat-news/-/ddn-20210526-1> (Accessed April 17, 2024)

<sup>19</sup> Eurostat, *Temporary employees as percentage of the total number of employees, by sex, age and country of birth (%)*, 2023, <https://data.europa.eu/data/datasets/l57mixonwqvvllkqsgea5qv?locale=en> (Accessed April 17, 2024).

about transfers of companies, collective redundancies and other<sup>20</sup>. Meanwhile, the EU Member States are responsible for incorporating these directives into their legal systems, enforcing the rules, and having discretion to expand on minimum protection measures. However, according to an in-depth analysis of the scope of EU labour law provided by the EU's Policy Department for Economic, Scientific and Quality of Life Policies, as standard employment relationships are declining, the workers in various non-standard contracts, including temporary employment, are left without adequate protection under the current EU labour law framework,<sup>21</sup> resulting in policy and ethical issues related to temporary work programmes.

### 3. Global Justice and Temporary Work Programmes in the EU

The most common normative stance introduced in the debate on migration, whether temporary or permanent, is the theory of global justice. Global justice addresses the issue of just distribution of opportunities, benefits and burdens across the globe<sup>22</sup>. The cosmopolitan global justice theorists are primarily concerned with individual human beings, the issue of global inequality and the responsibilities that the more affluent might entail for those who are impoverished.

Proponents of the global justice theory are committed to lessening the global inequalities that divide the wealthier countries from the poorer.<sup>23</sup> They propose different solutions to such a problem: some scholars suggest giving citizens of poorer nations the resources so they could meet their needs and access their capabilities. However, the most common claim is for more open borders in a sense that immigration should be considered as treatment for global injustices. According to this line of reasoning, those who lack sufficient opportunities and protection at home should be able to migrate to the countries where their needs and opportunities would be realised.

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<sup>20</sup> European Commission, *Labour Law*, Available from: <https://ec.europa.eu/social/main.jsp?catId=157&langId=en#:~:text=Labour%20law%20defines%20your%20rights,%2C%20transfers%20of%20companies%2C%20etc> (Accessed April 17, 2024).

<sup>21</sup> Z. Boudalaoui-Buresi, M. Szpejna, *The Scope of EU Labour Law: Who is (not) Covered by Key Directives?*, European Parliamentary Research Service, 2020.

<sup>22</sup> A. Choudhary, *Global justice*, In A. Farazmand (ed.), *Global Encyclopedia of Public Administration, Public Policy, and Governance*, Springer, 2018.

<sup>23</sup> P. T. Lenard, C. Straehle, *op. cit.*

Temporary work programmes respond to the demands of the global justice theory. Economically disadvantaged migrants can cross borders in search of better employment opportunities, even if it is on a temporary basis. Financial gains from these programs benefit not only individuals who are subject to guest-work but also the societies at home, as remittance flows made by guest workers contribute significantly to the home economies and help redistribute wealth on a global level.<sup>24</sup>

However, Lenard and Strachle<sup>25</sup> argue that just temporary labour programs should permit temporary workers to attain citizenship in time. The authors invoke the principle of liberal democracy, which stresses that all individuals should have the right to participate fully and equally in the political life of the society where they reside for extended period. The principle implies that individuals subjected to TLMP should have access to more rights, including the right to apply for citizenship. *Temporariness* of such work programmes should be underlined not in the status of the worker, but rather in their obligation to remain employed in a specific sector for a limited period<sup>26</sup>. And as long as the requirement for temporary work programmes to enable their participants to obtain citizenship and become full-fledged members in the host country over time is met, the authors deem these programmes as just means to respond to unequal global wealth distribution.

Considering the intra-EU temporary work programmes and the fundamental rights under the EU law, the requirements for just TLMP could be presumed to have been met. The EU Charter of Fundamental Rights guarantees freedom of movement and the right to freely reside in any of the countries within the EU<sup>27</sup>. EU citizens are encouraged to move, with the promise of equal treatment with the nationals of the host state, “including in the sphere of social rights and access to the welfare state”<sup>28</sup>. In fact, the equal treatment promise for the intra-EU migrants contrasts with the situation of non-EU migrants as non-EU migrants may be

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<sup>24</sup> J. N. Francois, N. Ahmad, A. Keinsley, A. Nti-Addae, *Remittances Increase GDP with Potential Differential Impacts Across Countries*, World Bank Blogs, 2022, <https://blogs.worldbank.org/peoplemove/remittances-increase-gdp-potential-differential-impacts-across-countries> (Accessed April 17, 2024); N. S. Shirazi, S. A. Javed, D. Ashraf, *Remittances, Economic Growth and Poverty: A Case of African OIC Member Countries*, in *The Pakistan Development Review*, 2018, vol. 57 n. 2, 121–143.

<sup>25</sup> P. T. Lenard, C. Strachle, *op. cit.*

<sup>26</sup> Ibidem.

<sup>27</sup> European Union, *Charter of Fundamental Rights of The European Union*, in *Official Journal of the European Union*, 2000, C364/1.

<sup>28</sup> S. Martu, P. Minderhoud, *Struggles over social rights: Restricting access to social assistance for EU citizens*, in *European Journal of Social Security*, 2023, vol. 25 n. 1, 3-19.

subject to suspicion or scrutiny from authorities, and their presence may require justification, such as obtaining visas or permits<sup>29</sup>. Furthermore, under certain conditions, including a period of legal residence, language proficiency, and other criteria, the right to freely reside in any of the Member State can eventually lead to eligibility for citizenship through naturalisation. If, as Lenard and Straehle argue<sup>30</sup>, the right to apply for citizenship in a host country is what impedes temporary work programmes from becoming just, then the intra-EU temporary labour migration could be seen as overcoming this barrier. And, according to the global justice advocates, TLMP within the EU could be ethically justified. Nevertheless, the intra-EU temporary migrant workers are still subject to unfairness and a position of vulnerability. Short-term employment that is offered to migrants is usually low-salary work in low-skilled or seasonal work sectors<sup>31</sup>. Studies suggest that these workers are provided with part-time and hazardous employment circumstances with some of the contracts not even lasting the period that was promised at the beginning<sup>32</sup>. The same studies also highlight an important and worrying trend: the shortening of temporary work contracts. In the context of pre-Brexit UK, during the “earlier periods of unskilled mass migration, several years rather than days was the norm for temporary employment”<sup>33</sup>. Besides the fact that these conditions point to the vulnerable and economically unstable position of temporary workers, the shortening of work contracts to weeks or even days also poses significant challenges for the possibility to apply and obtain citizenship, which in many cases require foreign nationals to reside in the host country for years before being eligible to apply.

The prolonged periods between jobs, coupled with temporary employment that often involves frequent periods of economic inactivity, may also expose foreign EU citizens to the risk of expulsion from the host country. This comes as a result of the interest of the EU Members States in protecting their social assistance systems from exploitation<sup>34</sup>. Thus, despite the rhetoric of equality, the right for EU citizenship tends to

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<sup>29</sup> Ibidem.

<sup>30</sup> P. T. Lenard, C. Straehle, *op. cit.*

<sup>31</sup> S. Amo-Agyei, *The Migrant Pay Gap: Understanding Wage Differences Between Migrants and Nationals*, International Labour Organization, 2020.

<sup>32</sup> D. Sporton, *op. cit.*

<sup>33</sup> Ibidem.

<sup>34</sup> A. Simola, *Lost in Administration: (Re)Producing Precarious Citizenship for Young University-Educated Intra-EU Migrants in Brussels*, in *Work, Employment and Society*, 2018, vol. 32 n. 3, 458-474; S. Martu, P. Minderhoud, *op. cit.*

favour those who are engaged in economic activities and less those who are not<sup>35</sup>. Simola even applies the concept of “precarious citizenship” to the context of intra-EU migration, referring to those individuals who are unable to obtain access to permanent citizenship status<sup>36</sup>. She argues that the employment-related conditionality approach in determining EU migrants’ rights becomes complicated under the conditions of widespread insecure employment contracts<sup>37</sup>. With access to social rights and eventually to citizenship linked to having continuous employment, temporary labour migration programmes even for the EU citizens may be an obstacle for accessing formal rights in another European country.

The prospects of acquiring national citizenship in a host country within the EU, although theoretically feasible, can be quite challenging in reality. Many temporary work contracts, particularly in seasonal sectors, do not require applicants to be proficient in the local language. Language barriers not only complicate migrants’ ability to seek assistance in case of violation of rights or any other injustices and navigate the foreign labour market in search of alternative employment<sup>38</sup>, but they also hinder the possibility of attaining citizenship, since a strong command of the local language is a prerequisite for the application process.

Other studies suggest that migrants experience discrimination and marginalisation in a host country, which, combined with a limited knowledge of local language, compel them to seek out individuals with whom they share ethnicity and a common language<sup>39</sup>. This pattern of behaviour leads to social stratification which in turn harms both the receiving society in terms of integration and also the migrants who “lack a clear footing” in the hosting society as well as “the sense of belonging”<sup>40</sup>. Even after migrants finally attain the receiving state’s citizenship, they still face many obstacles that prevent them from fully integrating into the society. For example, unequal opportunities in a labour market or cultural exclusion, an aspect which separates newcomers from local people.

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<sup>35</sup> C. R. O’Brien, *Civis Capitalist Sum: Class as the New Guiding Principle of EU Free Movement Rights*, in *Common Market Law Review*, 2016, vol. 53 n. 4, 937-977.; S. Martu, P. Minderhoud, *op. cit.*

<sup>36</sup> A. Simola, *op. cit.*

<sup>37</sup> *Ibidem.*

<sup>38</sup> A. Nuti, *op. cit.*

<sup>39</sup> A. Bermudez, L. Oso, *Recent Trends in Intra-EU Mobilities: The Articulation Between Migration, Social Protection, Gender and Citizenship Systems*, in *Ethnic and Racial Studies*, 2020, vol. 43 n. 14, 2513-2530; A. Nuti, *op. cit.*

<sup>40</sup> A. Bermudez, L. Oso, *op. cit.*

Therefore, while the EU allows seemingly unrestricted temporary labour migration between its Member States, the acquisition of citizenship, which, as Lenard and Straehle argue<sup>41</sup>, is a crucial requirement for justifiable TLMP, can often be hindered. Temporary workers may be unable to obtain other EU Member States citizenship due to the typical requirement of several years of residency in the host country, the proficiency of the local language and the status of economic activity.

#### **4. Individual Agency, Life Plans and Intra-EU Temporary Work Programmes**

Individual moral agency is another important argument presented by liberal theories of justice that significantly pertains to the ethics of temporary work migration. According to the argument for individual agency, individuals, in this context labour migrants, should be regarded as autonomous and rational actors who strive to maximise their own utility. They exercise their freedom to choose the means to achieve their goals and make voluntary decisions regarding whether or not to migrate.

Ottonelli and Torresi<sup>42</sup> devote notable attention to the notion of *voluntariness* in the context of temporary (which might as well be applied to permanent) migration. They argue that only voluntary migration can be considered as just and in order to be considered as voluntary it should fulfil a series of necessary conditions. Most importantly, migrants should not be coerced into the decision to move abroad and their choice to migrate should be seen as part of their life plan that might entail important long-term goals for the agent. However, this “exercise of their agency”<sup>43</sup> also has to be accompanied with the possibilities to exit the contract, especially in the case of any offences. In addition, agents should also have access to the adequate information about the choices they make as well as a range of options to choose from<sup>44</sup>.

EU citizens have a relatively wide range of options they can choose from. All of the countries within the EU are open for them, many of which offer different temporary work programmes varying in length and the amount of compensation. The quality of opportunities at home in almost all of Member States is quite good as well, as compared to some non-EU countries, where the alternatives to migration involve extremely

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<sup>41</sup> P. T. Lenard, C. Straehle, *op. cit.*

<sup>42</sup> V. Ottonelli, T. Torresi, *op. cit.*

<sup>43</sup> V. Ottonelli, T. Torresi, *op. cit.*

<sup>44</sup> *Ibidem.*

challenging living conditions and, in some cases, even experiences of serious human rights abuses and harm<sup>45</sup>. Moreover, there are numerous organisations and media agencies within the EU dedicated to informing prospective temporary and other type of workers about the challenges and issues they may face while working in a foreign country (for example, European Agency for Safety and Health at Work).

However, even though the agency and *voluntariness* of migrants are seemingly respected in the context of the intra-EU TLMP, particularly when compared to the situation of migrants from non-EU countries, some aspects of these programmes raise moral concerns. Regarding the *voluntariness* aspect of temporary labour migration, while the European free movers seem to be able to choose whether to migrate or not, the increasingly changing European labour markets, with the growing number and reliance on temporary, fixed-term contracts<sup>46</sup> seem to preclude the (migrant) workers from the alternative choice of permanent employment contracts, which would endow the workers with more stability and security. While permanent employment offers workers greater rights and benefits, temporary contracts are increasingly prevalent in various fields and sectors<sup>47</sup>, even in those where long-term projects, expertise, and relationship-building are necessary. The inability to obtain a permanent and stable work contract may also be a reason to migrate to another country where the prospects of a more stable employment position and overall economic security are more promising<sup>48</sup>. According to the survey presented in a study on “Young people and temporary employment in Europe”<sup>49</sup>, the main reason among the European youth for choosing temporary employment across the (at the time) 28 EU Member States and

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<sup>45</sup> A. d’Angelo, B. Blitz, E. Kofman., N. Montagna, *Mapping Refugee Reception In the Mediterranean: First Report of the Evi-Med Project*, 2017, available at: [www.mdx.ac.uk/evimed](http://www.mdx.ac.uk/evimed)

<sup>46</sup> A. Broughton, M. Green, C. Rickard, S. Swift, W. Eichhorst, V. Tobsch, I. Magda, P. Lewandowski, R. Keister, D. Jonaviciene, N. Elena, R. Martín, D. Valsamis, F. Tros, *Precarious Employment In Europe: Patterns, Trends And Policy Strategies*, European Parliament, 2016.

<sup>47</sup> N. Yates, N. Wintour, *Temporary Labour Migration: Two Studies on Workers’ Perspectives and Actions*, International Labour Organization, 2012.

<sup>48</sup> M. Becic, M. Matic, D. Jasprica, *The Role of Precarious Employment in Emigration Flows from Croatia*, in *Montenegrin Journal of Economics*, 2019, vol. 15 n. 4, 173-182; S. Marcu, *The limits to mobility: Precarious work experiences among young Eastern Europeans in Spain*, in *Environment and Planning A: Economy and Space*, 2019, vol. 51 n. 4, 913-930; K. Botyriūtė, *Employment Precarization and Skilled Labour Migration in Western EU Countries*, in *European Integration Studies*, 2023, vol. 1 n. 17, 153-164.

<sup>49</sup> M. Matsaganis, N. Rabemiafara, T. Ward, *Young People and Temporary Employment in Europe*, Eurofound, 2013.

Norway was indicated as the inability to find a permanent position. In addition, this subset within the study was categorised as involuntary temporary employment. This example illustrates that *voluntariness* within the European temporary labour migration is not fully realised. However, the *voluntariness* in this case lies in the type of employment position that the workers are forced to choose involuntarily rather than in the decision to migrate for temporary employment-related reasons.

Furthermore, temporary work contracts, whether for foreign or local workers (but particularly for a foreigner), have notable negative consequences for an individual's life plan. Contemporary economies appear to be increasingly relying on temporary work in sectors that could function effectively with permanent contracts. The 2017 study commissioned by the European Parliament's Policy Department for Citizens' Rights and Constitutional Affairs on the extent and nature of precarious employment types showed that EU Member States are continuously and expansively rely on fixed-term work and variable working hours arrangements<sup>50</sup>. These types of work are also defined as *precarious* implying "instability, lack of protection, insecurity and social or economic vulnerability" that accompany workers in precarious job positions.<sup>51</sup> What implications does such a job position have for an individual's life plan? Primarily, temporary workers are unable to effectively plan their long-term goals, as fixed-term contracts lack the necessary security. Some contracts are extremely short, lasting only 1-2 months<sup>52</sup>, leaving workers in a constant state of concern about their financial future and whether they will have employment after the contract ends. Plans for family life, particularly for women who, as indicated in the literature on precarious jobs, are also more affected by the temporary work contracts<sup>53</sup>, must be postponed due to the financial instability and insecurity that dictate the available choices for individuals. Contemporary labour *temporariness* and precariousness also lead to constant moving

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<sup>50</sup> A. Koukiadaki, I. Katsaroumpas, *Temporary Contracts, Precarious Employment, Employees' Fundamental Rights and EU Employment Law*, European Parliament, 2017.

<sup>51</sup> Ibidem.

<sup>52</sup> D. Costa, P. Martin, *Temporary labor migration programs: Governance, migrant worker rights, and recommendations for the U.N. Global Compact for Migration*, Economic Policy Institute, 2018, <https://www.epi.org/publication/temporary-labor-migration-programs-governance-migrant-worker-rights-and-recommendations-for-the-u-n-global-compact-for-migration/> (Accessed April 17, 2024).

<sup>53</sup> S. Buckingham, C. Fiadzo, V. Dalla Pozza, L. Todaro, C. Dupont, K. Hadjivassiliou, *Precarious Work From a Gender and Intersectionality Perspective, and Ways to Combat It*, European Parliament, 2020.



between cities as well as countries in search for employment, which also interferes with the long-term life plans and sometimes leads to job displacement<sup>54</sup>. Finally, temporary jobs require workers to make numerous adjustments to their goals and aspirations, whereas a better and more stable work environment could potentially yield different outcomes.

The individual choice approach can be challenged as it relies on subjective perspective of workers about their employment situation. How they regard their employment position depends on how they perceive choices available to them as well as the system as a whole<sup>55</sup>. The study about the Australian youth in creative industries and their subjective experiences of precarious labour show that young workers who entered an already casualised labour market view it as the new norm and normalise insecure employment conditions<sup>56</sup>. Such workers voluntarily accept their precarious positions as they regard it as an inescapable path towards their desired careers. Yet, one could again argue whether these workers truly exercise their autonomy or whether such pre-existing labour market conditions pressure these agents into incorporating the new, even precarious, norms in their value systems.

Hence, the increasing *temporariness* and precariousness of the European labour market significantly hamper the *voluntariness* aspect of justifiable temporary work programmes. The decision to temporarily migrate for employment reasons could be deemed as involuntary, as the more desirable option of permanent employment is often unattainable due to limited opportunities. Yet, in such a case, temporary employment contracts rather than migration itself is creating more concerns for the justification of the intra-EU TLMP.

## 5. Conclusions

European Union guarantees the freedom of movement, which also includes free mobility for work related reasons. The EU legal framework also sets minimum standards for working conditions and equal treatment as well as provides information and consulting on labour landscape within the EU. In theory, the EU's labour migration programmes positively

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<sup>54</sup> S. Marcu, *op. cit.*

<sup>55</sup> A. Broughton, M. Green, C. Rickard, S. Swift, W. Eichhorst, V. Tobsch, I. Magda, P. Lewandowski, R. Keister, D. Jonaviciene, N. Elena, R. Martín, D. Valsamis, F. Tros, *op. cit.*

<sup>56</sup> G. Morgan, J. Wood, P. Nelligan, *Beyond the Vocational Fragments: Creative Work, Precarious Labour and the Idea of 'Flexploitation'*, in *The Economic and Labour Relations Review*, 2013, vol. 24 n.3, 397–415.

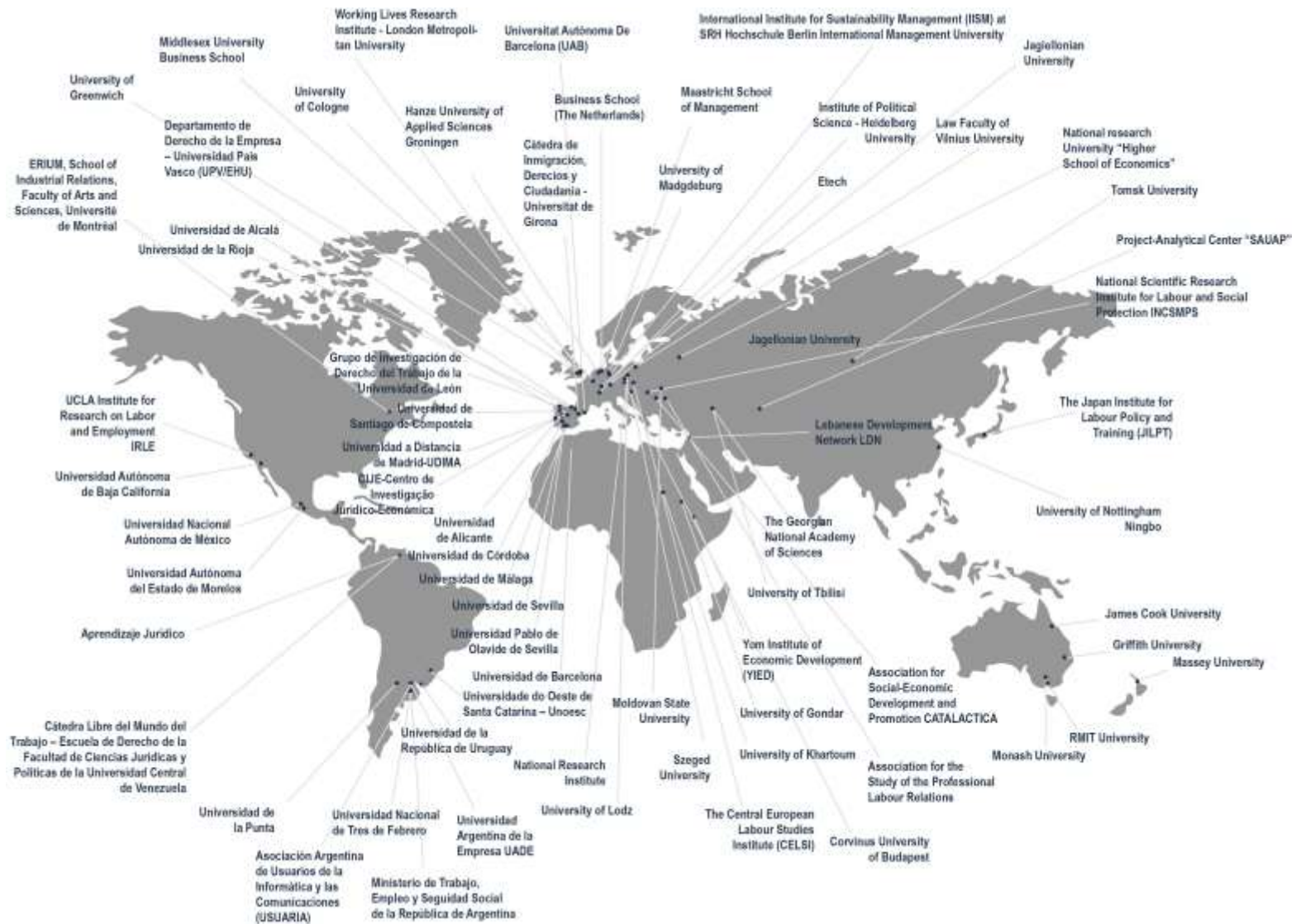
respond to the global justice demand for more open borders, equal treatment, and the possibility to attain citizenship of the host country over time. However, in reality, obtaining the other Member States citizenship may be complicated amid employment-related conditionality approach to EU migrants' rights and ability to obtain citizenship. Widely spread forms of non-standard employment and frequent periods of economic inactivity significantly hinder access to formal rights.

Furthermore, as many temporary work programmes, especially seasonal work, do not require to know the language of the host country – a requirement before applying for citizenship – and are typically characterised by a short duration, this also precludes access to citizenship. In addition, the language barrier hampers the possibility to participate in the foreign society, while it may also lead to marginalisation and discrimination of foreign workers. These serious issues with temporary labour migration require diligent policy action to ensure that intra-EU TLMP are ethically justifiable.

Moreover, temporary labour migration significantly affects individual life plan and agency, another requirement for ethically justified TLMP. Many instances suggest that TLMP have negative consequences on an individual life plan as temporary work itself falls under precarious employment conditions, leading to instability, insecurity and vulnerability as well as inability to adequately project individual long-term goals. The prevalence of temporary contracts precludes individuals to secure a permanent job position. The inability to choose better employment options leads to the involuntary choice of accepting temporary employment. As a result, individual agency is denied due to an indirectly coerced choice to do a fixed-term labour.

This paper does not want to suggest that temporary work programmes should be completely abandoned because they create more precarious work conditions. Some jobs are temporary in nature, for example, seasonal work that ends with the harvest, suggesting that they cannot be replaced by something inherently different. However, the current trend of the expansion of fixed-term work to a wide range of sectors and the shortening of contract duration seem to be superfluous and even raising serious ethical concerns from the individual agency perspective. What precludes from achieving an ethically justified temporary labour migration is not only the institutional treatment of migrants, but also deficiencies of the European labour markets. Therefore, fair migration and fair employment must be regarded as interconnected issues.

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