
SPATIOTEMPORAL SCALES OF THE EU LEGAL FRAMEWORK FOR TEMPORARY LABOUR MIGRATION

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Scope

- Beyond “mobility” vs “migration”
- Migration is temporary when EU law says so
 - **Posting of workers** (Directive 96/71)
 - **Seasonal work** (Directive 2014/36)
 - **Intra-corporate transfers** (Directive 2014/66)
 - **Au pairs** (2016/801)

The Labour Market

- **Posted workers:** “without at any time gaining access to the labour market of the host Member State”
 - or maybe? (temporary work agencies, long-term postings)
- **Seasonal workers:** labour market tests possible
 - Impact assessment: they form a part of the national labour market where they work
- Labour market test sometimes possible for **au pairs**
 - IF they are classified as workers
- Labour market test forbidden for **intra-corporate transfers**
 - Impact assessment: they do not substitute any national or EU worker

The Labour Market

By Labour Market Definition	Total
TEXTBOOK ECONOMIC	358
SPATIAL	175
STATISTICAL OBJECT	107
SOCIOLOGICAL	99
INTERNAL LABOUR MARKET	2

- What does EU law *mean* when it refers to the “labour market”?
 - Systematic document analysis of 1803 mentions
 - Undecided and irrelevant results are not included

-- Rocca, M., & Deverson, A. (2024). Time and Labour Markets in the Regulation of Temporary Labour Migration in the European Union. *Italian Labour Law E-Journal*, 17(1), 261–278

The Labour Market

➤ the labour market is a marketplace where workers sell their services to competitive employers in return for a **wage**, the level of which is determined by the interaction of the **demand and supply of labour**

or

➤ the area within which workers can **move comparatively freely** from one job to another

Temporariness

- **Seasonal workers:** 6-9 months
- **Au pairs:** 12 months (can be shorter, +6 months extension)
- **Intra-corporate transfers:** 1 (trainees) or 3 (managers and technicians) years max

Temporariness

- **Seasonal workers:** 6-9 months
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- **Posted workers:** foreseeable limit in time but no limit ex-ante (attraction into the “**thin time**” of business)
 - The struggle for time in the case of posting of third country nationals
 - And the “victory” of the logic of migration in *SN and Others* (C-540/22)

Temporariness

- How long is “temporary” according to EU law?
- Who is assessed with “thick time”?

DURATION	ITEMS
<= 30 days	5
> 30 and <= 365 days	46
> 365 days	2

TYPE OF TIME	ITEMS
Human	36
Business	10
Regulation	7

-- Rocca, M. (2025). EU Law Temporariness Corpus,
<https://doi.org/10.57745/0FPFXT>, Recherche Data Gouv

Temporariness

➤ Whose temporariness?

SCOPE OF TIME	ITEMS
Individual	44
Collective	3
Regulation	6

➤ Lessons from posting of workers:

- PWD: **replacement** do not “reset the clock” for the 12 months threshold (confirmed in C-626/18)
- Social Security coordination: **replacement** entails the immediate affiliation in the country of arrival (confirmed expansively in C-527/16)

A Legal Rescaling

- Legal Focus on the **individual** migrant (*micro* level)
 - Legal Symbolisations and the **chronotope of temporary labour migration**
- Obfuscation of the actual contribution and presence
- **Rescaling** the legal focus to the *meso* level: employer/sector

Outro

- Develop a **vocabulary** and a toolset to address the legal *malaise* over the stretching of the legal fiction of “temporary” labour migration
- Temporary vs **systematic**
 - “by preventing the development of **systematic** cabotage practices, the waiting period [is intended to ensure] the **temporary** nature of cabotage” (CJEU C-541/20 to C-555/20)



THANK YOU!

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