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The European precariat: the protection of precarious workers in the European Union

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Summary

At the start of the process of European integration, the norm was for workers to be engaged through the 'standard employment relationship' (SER): fixed, permanent contracts, with full time hours and employment protections that, while lacking in certain respects, tended to ensure a level of stability and security in work. However, over recent decades this 'standardisation' of employment has broken down. As European economies developed, and new challenges arose, the old SER was replaced by a 'neoliberal' model that prioritises the development of competitive labour markets through increased flexibility in employment. The SER has been replaced by 'non-standard' employment: temporary, part time, and other kinds of flexible employment relations without the previous assured security in work. The more extreme examples of non-standard work place the worker in an insecure and exploitative situation where they have little security in work or power over their working situation: i.e., 'precarious employment'. Examples include platform work, zero-hour and on-demand contracts, the repeated use of temporary/short-term contracts, and bogus/false self-employment.

Migrant workers in particular must often navigate complex national migration and social security rules which are linked to their employment status. This places them on the intersection between two areas of law and risks them being excluded from one or both due to their precarious employment situation. For EU migrant workers engaged in precarious employment, who derive protection under EU free movement and social law, the level of protection that the European Union legal system can (and does) provide is limited by both economic and political ideas of protection, as well as its own constitutional boundaries and the limited competences it holds in the area of social law.

The European Precariat asks what level of protection is available to EU migrant workers engaged in precarious forms of non-standard employment. The thesis first defines the 'legal space' available for the protection of EU migrant workers, assessing how economic and political changes have led to the constitutional and political limitations of European integration. It then examines the legal framework applicable to workers and explains how the system of protection is based on a series of legal classifications that risk creating gaps in the law and excluding certain individuals due to them being engaged in precarious employment. Finally, the thesis investigates three specific case studies: (i) part-time, on-demand and other workers in limited working situations; (ii) temporary, short-term and workers facing an intermittent working pattern; and (iii) workers engaged on self-employment contracts despite the possible existence of an employer-employee relationship. In each study, the thesis will explain how precarious workers lose legal protection, what rights and protections are lost, and the wider consequences of this loss of protection. *The European Precariat* concludes by making concrete proposals for how EU migrant workers engaged in precarious forms of non-standard work can be better protected by utilising the tools available under EU law, and while adhering to the economic, political, and constitutional limitations of the legal system.