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Protecting Cross-Border Workers Within the EU: A Comparative Study Between Italy and the Netherlands

ABSTRACT: *This paper aims to identify the most insidious challenges and the most effective remedies to guarantee the principle of equal treatment and non-discrimination on grounds of nationality. It does so by analysing regulatory frameworks, case law and data on cross-border workers from a comparative perspective, with special focus on Italy and the Netherlands.*

KEYWORDS: *free movement of workers, cross-border workers, equal treatment, non-discrimination based on nationality, comparison.*

1.

Free Movement of Workers Within the European Union

Freedom of movement for workers was one of the founding principles of the European Union (EU).¹ In fact, the first article of the Community Charter of the fundamental social rights of workers² deals precisely with this freedom. The principles therein shaped the European social model in the following decades, and influenced the writing of the Charter of Fundamental Rights of the EU.³

Although free movement was already evident in Art. 3 of the consolidated version of the Treaty on EU (i.e. “the Union shall offer its citizens an area of freedom, security and justice without internal frontiers, in which the free movement of persons

1 Regulation no. 1612/68 and Council Directive no. 68/360, which have been updated several times.

2 Adopted on 9.12.1989 by a declaration of all Member States.

3 It was laid down in Nice on 18.12.2000 and became legally binding with the ratification of the Treaty of Lisbon on 1 December 2009. In particular, see art. 15 (2), of the EU Charter of fundamental rights, which establishes for every EU citizen “the freedom to seek employment, to work, to exercise the right of establishment and to provide services in any Member State”.

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is ensured⁴), the Treaty on the Functioning of EU (TFEU) identified this right in a clearer and more detailed way. Indeed, it ensured free movement of goods, persons, services, and capital within the internal EU market,⁵ and Art. 45 of the TFEU stated that “freedom of movement for workers shall be secured within the Union.”⁶ There are two important consequences of this declaration. Firstly, among workers of the member states it abolished discrimination based on nationality for employment, remuneration and other work conditions.⁷ Secondly, it allowed workers the right to move freely within the member states for work purposes, limiting it only for justified reasons⁸ such as public policy, public security or public health.⁹

Dir. 2004/38/CE of 29 April 2004¹⁰ and the Regulation EU no. 492/2011 of the European Parliament and of the Council of 5 April 2011 confirm that freedom of movement constitutes a fundamental right of workers and their families, and provides for equal treatment of employment within the EU. Indeed, within the EU labour mobility is one of the most relevant ways to give workers the opportunity to improve their living and working conditions and to promote social advancement.

Free movement entails all aspects of the employment relationship,¹¹ from hiring to termination, with particular attention to the social security system. Regulations exist that provide all workers in the EU with social security benefits, regardless of the place where the activity is carried out,¹² as long as it does not prejudice the autonomy of each member state to determine the types of social benefits and services.¹³ This kind of coordination of social security rules within the EU exemplifies how EU countries harmonise their social services. The EU did not create a single social security system – rather, it established links among the various and distinct social security systems present in each member state.

4 Art. 3 (2) TEU.

5 See art. 26 (2), TFEU.

6 Art. 45 (1) TFEU. Spaventa, 2007; Spaventa, 2015, p. 456; Shuibhne (ed.), 2023.

7 Art. 45 (2), TFEU.

8 Art. 45 (3), TFEU.

9 Just think about restrictions on freedom of movement during the Covid-19 pandemic in the years 2020-2021. According to measures introduced to contain the spread of the contagion, border controls were reintroduced: see Council Recommendation EU 2020/1475 on a coordinated approach to the restriction of free movement in response to the Covid-19 pandemic.

10 It is a tool for harmonising entry and residence requirements (even permanent) of a Union citizen and their family members in a Member State other than that of origin or provenance.

11 As a general rule, applicable legislation is that of the Member State in which the person concerned pursues their activity as an employed or self-employed worker.

12 Paju, 2017.

13 Regulation no. 883/2004 on the coordination of social security systems. See also regulation no. 987/2009, laying down the procedure for implementing Regulation no. 883/2004. Obviously, the worker must be a citizen of an EU Member State.

The phenomenon of labour mobility within the EU is also significant in numerical terms. According to the Annual Report on Intra-EU Labour Mobility 2022,¹⁴ the number of working age EU citizens¹⁵ living in a different EU country – other than the one in which they have citizenship – remained stable in 2020, at 10.2 million, despite the slowdown caused by the COVID-19 pandemic.¹⁶ The share of EU mobile citizens varies greatly between member states, ranging from 0.8% for Germany to 18.6% for Romania.

This data cannot be underestimated. In fact, it requires more attention to avoid the possible negative effects of discriminatory treatments. On 31 July 2019 the European Labour Authority (ELA) was established in order to guarantee that freedom of movement works in practice and brings a fair mobility to individuals and companies. In this perspective, the ELA has four principle aims. The first is to ensure better implementation of EU rules on labour mobility and social security coordination. The second is to provide support services for mobile workers and employers. Next is to sustain cooperation between member states in cross-border enforcement, including joint inspections¹⁷ to tackle undeclared work.¹⁸ Finally, it provides mediation to resolve possible disputes and to promote collaboration.

2.

Who are Cross-Border Workers?

In this framework, it is necessary to pay particular attention to cross-border workers. This term is used to define workers – both employees and self-employed workers – who exercise their right of free movement to work in one EU member state while

14 Published by the EU Commission on 05.04.2023.

15 Between 20 and 64 years.

16 According to the European Trade Union Confederation (ETUC), over 11.3 million people of working age live in another member State, available at: <https://www.etuc.org/en/issue/labour-mobility#:~:text=Over%2011.3%20million%20people%20of,to%20their%20place%20of%20work>

17 Joint inspections are inspections carried out in a Member State with the participation of the national authorities of one or more other Member States, and supported, where appropriate, by the staff of the Authority. They are different from concerted inspections, that are carried out in two or more Member States simultaneously regarding related cases, with each national authority operating in its own territory, and supported, where appropriate, by the staff of the Authority: art. 8 (2) of the EU Regulation 2019/1149, establishing the ELA.

18 See ELA Consolidated Annual Activity Report 2022.

remaining resident in another.¹⁹ The concept of cross-border workers covers different circumstances, and the definition may vary from one field to another,²⁰ thus creating confusion and application uncertainties.

Often ‘cross-border workers’ and ‘frontier workers’ are considered synonymous; however, cross-border commuters are distinct from frontier workers to the extent that they do not necessarily work in the frontier zone of the host country. Indeed, frontier workers – as the word itself indicates – are workers who are employed in the frontier zone of an EU member state, but who return each day or at least once a week to the frontier zone of a neighbouring country in which they reside and of which they are citizens.

However, sometimes these terms overlap. The reason is that bilateral tax agreements – which determine the tax arrangements applicable to cross-border workers²¹ – use restrictive definitions and additionally impose a spatial criterion.²²

Furthermore, other expressions are contiguous to the term ‘cross-border workers’. One example is the term ‘posted workers’,²³ employees who are sent by their employer to carry out a service in another EU member state on a temporary basis. This can be found in the context of a contract of services, an intra-group posting or a hiring through a temporary agency.²⁴ Another example is ‘seasonal workers’. These include EU and third country nationals travelling to a member state to temporarily live and carry out an activity dependent on the passing of the seasons.²⁵

According to set theory we could say that the expression ‘cross-border work’ has a larger circumference. It is the species which includes the smaller circumferences, represented by frontier work, posted work and seasonal work (i.e. the genera).²⁶

19 It is essential that they retain their normal place of residence outside the State of employment. If the cross-border employees move to the State of employment, they become migrant workers. The term “normal” place of residence does not exclude the possibility that the cross-border employee, for practical reasons, also has temporary accommodation in the State of employment: Distler and Essers, 2011, p. 65.

20 For instance, tax law, right of residence, welfare entitlements.

21 In order to avoid double taxation.

22 I.e. living and working in a frontier zone: available at https://home-affairs.ec.europa.eu/networks/european-migration-network-emn/emn-asylum-and-migration-glossary/glossary/cross-border-worker_en

23 *Ex multis*, Fuchs, 2018, p. 3; Rombouts and Houwerzijl, 2018, p. 127; Houwerzijl and Berntsen, 2020, p. 147.

24 The Directive 96/71/CE identifies the definition, the scope, the terms, and the conditions of posted work, but, nevertheless, it is not enough to prevent possible abuse and to distinguish it clearly from other types of labour mobility: Houwerzijl, van Hoek, 2012, p. 419.

25 See the final report written in March 2021 by the European Commission on “Intra-EU mobility of seasonal workers. Trends and challenges”, available at <https://ec.europa.eu/social/main.jsp?catId=738&langId=en&pubId=84008>

26 It is worth specifying that, for the purpose of this research, the expression “cross-border workers” is used in its broadest sense, including its various facets.

It should be stressed that most cross-border workers carry out essential activities in key economic sectors such as agriculture and food production, transport and logistics, construction, social services including care, social work, tourism, food processing and packaging, healthcare and research, IT and pharmaceutical industries, critical infrastructure industries, etc. The health emergency caused by COVID-19 and its mobility restrictions shed light on the strategic role played by cross-border commuters, as the European Parliament pointed out.²⁷

No EU-wide systematic data-gathering or digital tracking system exists to provide adequate data on the total numbers of cross-border workers, but their presence in EU and EFTA²⁸ countries is estimated at approximately 1.7 million. It is a remarkable number and deserves great attention, especially because European labour inspectorates repeatedly report violations of labour rights of cross-border workers.²⁹ For instance, in 2017 more than 700,000 people may have been engaged in some form of undeclared cross-border work. And this figure might increase with raising labour mobility and the growth of new forms of work.³⁰ Furthermore, the consequences of the pandemic crisis may exacerbate existing problems in their treatment,³¹ increasing risks of social dumping and law shopping.³²

Ensuring fairness for companies and workers to operate on a level-playing field across borders is critical to a well-functioning internal market and, therefore, is one of the fundamental issues for the EU.

27 European Parliament resolution of 19.06.2020 on European protection of cross-border and seasonal workers in the context of the Covid-19 crisis.

28 European Free Trade Association, which is an intergovernmental organisation set up for the promotion of free trade and cooperation between the Member States (Iceland, Liechtenstein, Norway, and Switzerland).

29 The last ELA Activity Report shows that, during the 37 concerted and joint inspections organised in 2022, more than 350 infringements were identified. Most irregularities concerned violations related to posted workers, undeclared work, driving and resting times, low wages and possible bogus self-employment: ELA, 2023, p. 11.

30 Stefanov, Mineva, Schönenberg and Vanden Broeck, 2020, p. 2.

31 "Rights for all seasons" was the slogan of the campaign promoted by ELA in the autumn 2021 to inform cross-border workers about their rights and duties, to raise awareness of the employers about the benefits connected to compliance with the rules, and to draw attention to specific safety-measures, available at: <https://www.lavoro.gov.it/priorita/Documents/ELA-national-communication-plan-2021.pdf>

32 For instance, the above-mentioned final EU report 2021 on intra-EU seasonal workers highlights that the most alarming critical issues are represented by lack of access to information about their rights, inadequate social protection, poor accommodation, low pay, and challenging working conditions. These challenges were aggravated during the COVID-19 pandemic, since many seasonal workers could not carry out their work, but, at the same time, they were trapped in countries of work and could not return home.

3.

A Comparative Analysis Between Italy and the Netherlands

Although the right of movement for workers is clearly established within the EU and is based on the principle of non-discrimination because of nationality,³³ it is not so obvious that cross-border workers are actually treated in the same way as nationals. The most significant examples may include access to work, conditions of employment, and social and tax benefits.³⁴ Because there are no standardised national legislations on the matter, the legal system framework is complex. This lack of coordination – even in the application of different definitions of the term ‘frontier worker’ depending on the country and the appropriate double-taxation agreement³⁵ – can lead to different treatments of workers from other member states compared to domestic workers. The European Court of Justice has intervened several times, particularly about taxation of cross-border workers,³⁶ since “the risk of penalties from a fiscal point of view could constitute a brake on these forms of mobility, effectively creating a form of discrimination.”³⁷

Considering the above, it may be interesting to verify how the EU regulatory framework on cross-border commuters works in individual countries and whether it is enough to avoid every kind of discrimination based on nationality. Therefore, preliminary clarifications are necessary to circumscribe the action range of the research to obtain the most reliable results. Firstly, this study aims to focus on three relevant issues: checking the correct transposition and effective compliance with the EU regulatory provisions; evaluating the real impact of cross-border workers (both incoming and outgoing ones); and identifying the most significant challenges. Secondly, this research is based both on an analytical methodology – i.e. examining the regulatory provisions and the data on the matter – and a comparative methodology, bringing into focus suggestive similarities and contrasts among two member states.

The countries selected for this comparative survey – Italy and the Netherlands – are very different not only from a geographical point of view, but also in a

33 According to art. 18 TFEU, “any discrimination on grounds of nationality shall be prohibited”. Moreover, art. 45 (2) TFEU establishes that “such freedom of movement shall entail the abolition of any discrimination based on nationality between workers of the Member States as regards employment, remuneration and other conditions of work and employment”.

34 See Distler and Essers, *cit.* p. 8.

35 As seen in par. 2 of this essay.

36 *Ex multis*, CJEU 14.02.1995, C-279/93 (Finanzamt Köln-Altstadt versus Roland Schumacker); CJEU 11.08.1995, C-80/94 (Wielockx / Inspecteur der directe belastingen); CJEU 12.06.2003, C-234/01 (Gerritse); CJEU 9.11.2006, C-520/04 (Turpeinen), in <https://curia.europa.eu>.

37 Nunin, 2016, p. 259.

socioeconomic context. Because most of Italy's national territory extends into the Mediterranean Sea,³⁸ only the northern Italian regions border other European countries.³⁹ This geographical conformation makes the presence of cross-border workers⁴⁰ particularly difficult, because they can only easily reach the limited territories on the border. Conversely, the Netherlands is more than half surrounded by Belgium and Germany and most of the country can be accessed effortlessly.⁴¹ Furthermore, from a socioeconomic perspective, according to the data on the year 2022⁴² the gross domestic product per capita in Italy is slightly below the European average, whereas the Netherlands is in fifth place on the list, with about 16,000 USD more than the European average. Moreover, the Eurostat data on the third quarter of 2022 shows that the unemployment rate in Italy⁴³ is among the highest in the EU,⁴⁴ while the Dutch unemployment rate is one of the lowest.⁴⁵

These differences represent an interesting starting point for comparison while analysing the safeguards of cross-border workers, also considering that "the main purpose of comparative law is a better understanding of one's labour law system."⁴⁶

4. Harmonisation with the EU Legislation on Cross-Border Workers

Even though there are some differences in the formulation of the regulatory provisions, the constitutions⁴⁷ of Italy⁴⁸ and the Netherlands⁴⁹ both recognise protections for all workers, regardless of their nationality. Indeed, work is one of the pillars of the Italian Constitution since the first paragraph of the first article,⁵⁰ and in several

38 Bordering the Ligurian Sea, the Tyrrhenian Sea, the Ionian Sea and the Adriatic Sea.

39 Specifically, France, Switzerland, Austria, and Slovenia.

40 Especially the frontier ones.

41 While the remaining part borders the North Sea.

42 Available at: <https://tradingeconomics.com/>

43 8,3%.

44 About 2,2% more than the European average (6,1%).

45 3,7%.

46 Weiss, 2003, p. 169. See also Blanpain, 2010, p. 3.

47 Both in Italy and the Netherlands the Constitution is the highest law.

48 The Italian Constitution was approved by the Parliament in December 1947 and came into effect on 1st January 1948. The English version adopted in this contribution is published in https://www.prefettura.it/FILES/AllegatiPag/1187/Costituzione_ENG.pdf

49 The Dutch Constitution dates from 1814. The version of the Constitution currently in force dates from 1983. The English translation adopted in this essay is published in <https://www.government.nl/documents/reports/2019/02/28/the-constitution-of-the-kingdom-of-the-netherlands>

50 "Italy is a Democratic Republic, founded on work".

provisions workers⁵¹ are guaranteed with relevant safeguards.⁵² Furthermore, the second paragraph of Art. 35 “promotes and encourages international agreements and organisations which have the aim of establishing and regulating labour rights.”

Although the Dutch Constitution devotes less space to specific provisions on work, leaving it to ordinary law,⁵³ it recognises the legal status and protection of ‘working persons’ without any distinctions. Moreover, the Dutch Constitution opens with a fundamental right, which can easily be defined in its working dimension: “all persons in the Netherlands shall be treated equally in equal circumstances. Discrimination on the grounds of religion, belief, political opinion, race or sex or on any other grounds whatsoever shall not be permitted.”

In the Italian Constitution there is a similar provision,⁵⁴ but it is aimed only at citizens.⁵⁵ This divergence likely depends on the different periods in which these two constitutional provisions were issued. The Italian has been the same since 1947, while the Dutch one was modified in 1983. Obviously, at that time anti-discrimination sensitivity was more mature and the European legislation in this regard was already extensive.

However, in other articles the constitutional text ensures that “the Italian legal system conforms to the generally recognised rules of international law. The legal status of foreigners is regulated by law in conformity with international provisions and treaties”⁵⁶ and “Italy agrees, on conditions of equality with other States, to the limitations of sovereignty that may be necessary to a world order ensuring peace and justice among the Nations [and] promotes and encourages international organisations having such ends.”⁵⁷

Moreover, in both countries safeguards against discrimination have been ensured in more detail, at the ordinary level of legislation.

51 Without any kind of distinctions.

52 Regarding the fair pay (art. 36 (1)), the maximum working hours and the weekly and annual paid vacation (art. 36 (2, 3)), protection of women and of minors on the job (art. 37), social insurance for old age, illness, invalidity, industrial diseases, and accidents (art. 38), freedom of association (art. 39) and right to strike (art. 40).

53 See art. 19 (2).

54 See art. 3 of the Italian Constitution.

55 “All citizens have equal social dignity and are equal before the law, without distinction of sex, race, language, religion, political opinion, personal and social conditions”.

56 Art. 10 (1, 2).

57 Art. 11 (2, 3). The European Union is one of the international organisations that ensure peace and justice among the Nations.

In Italy the Workers' Statute⁵⁸ (WS) invalidates any kind of discrimination⁵⁹ for the following reasons: sex, race, language, religion, political or trade union or personal opinion, age, handicap, sexual orientation, and nationality.⁶⁰

The Equal Treatment Act (ETA), enacted on 1 September 1994 in the Netherlands, introduced the general principle of equality in ordinary legislation.⁶¹ It protects all individuals from direct and indirect unequal treatment based on religion or belief, political orientation, race, gender, nationality, sexual orientation, and marital status.⁶²

Indeed, the formulation of the Italian and Dutch regulatory provisions are very similar. Both incorporate inputs coming from the Constitutional Charter – which, as seen, presents strong similarities on this point – and from international and European anti-discrimination legislation.

Nevertheless, there are some interesting differences. Firstly, the Italian WS is expressly and exclusively devoted to workers, whereas the Dutch ETA is aimed at everyone and only in section five does it regulate the prohibition of discrimination in employment.⁶³ Secondly, the ETA does not use the term 'discrimination', but rather 'differentiation'. This is not merely a question of semantics because, under Dutch criminal law, the discrimination requires the intentionality of the conduct to be proven. Conversely, in labour law, even in the absence of an intention to discriminate, differential treatment can be unlawful. Therefore, using the term 'differentiation' avoids any possibility of confusion with criminal law. Thirdly, regarding employment the ETA provides for some specific exceptions to the rule of equal treatment. For instance, in cases where nationality is deemed a deciding factor, such as athletes who wish to play for the national team, or when casting an actor to play a specific

58 Law 20.05.1970, no. 300. It is one of the most relevant Italian regulatory provisions regarding labour and worker protection.

59 The sanction is the nullity of any agreement or action of the employer.

60 Art. 15 Law no. 300/1970. More recently, see the legislative decree 9.07.2003, issued in implementation of the European directive no. 2000/78/CE and updated in light of the directive no. 2014/54/EU. In doctrine, see, *ex multis*, Barbera, 1991; Barbera, 2003, p. 401; Barbera, 2007.

61 Before then, special civil law only protected discrimination on the grounds of sex. See Dierx and Rodrigues, 2003.

62 Ben-Israel and Foubert, 2004.

63 In Italy, general anti-discrimination provisions based on the race and ethnic background for all individuals are included the legislative decree 9.07.2003, no. 215, issued in implementation of the European directive no. 2000/43/CE.

character, corresponding citizenship may be required.⁶⁴ Finally, Art. 15 of the WS sanctions discriminatory acts and pacts with the nullity, while the ETA establishes the invalidity only in case of discriminatory dismissals.⁶⁵ In other situations, compensation is the only available remedy in cases of a breach of the equal treatment law.

Considering the above, free movement of workers and protection against discrimination based on nationality are guaranteed in both countries. This is true despite the inevitable practical difficulties in complying with the legislation,⁶⁶ especially regarding the state of play in implementing the EU regulatory provisions on cross-border workers.

Both member states try to implement the EU directives on the matter. However, occasionally there are critical issues and delays, *a fortiori* because this field is particularly complex and involves many aspects and interests.⁶⁷

Regarding one of the latest directives on the matter, no. 2020/1057,⁶⁸ ruling on the posting of lorry drivers, Italy approved the implementing decree on 23 February 2023 – one year after the deadline expired.⁶⁹ However, on 19 April 2023 the European Commission decided to refer the Netherlands to the Court of Justice for failing to transpose that directive into their national legislation.⁷⁰ Even though this EU directive is essential – not only to ensure social protection for drivers and to improve their working conditions, but also to guarantee fair competition between operators by eradicating illicit employment and business practices – 22 out of 27 EU member states implemented it late or have not done so at all. Despite there being good will among the parties, it appears that the time is not yet ripe for consistent enforcement of non-discriminatory road transport social rules across the EU.

64 While art. 15 of the WS does not provide exceptions, art. 3 (2), of the legislative decrees no. 215/2003 and no. 216/2003 introduces a regime of exceptions to general discrimination rule, according to art. 4 (1), of the European directive no. 2000/78: "Member States may provide that a difference of treatment which is based on a characteristic related to any of the grounds referred to in Art. 1 shall not constitute discrimination where, by reason of the nature of the particular occupational activities concerned or of the context in which they are carried out, such a characteristic constitutes a genuine and determining occupational requirement, provided that the objective is legitimate and the requirement is proportionate".

65 Actually, invalidity of discriminatory dismissal is rarely invoked: see Dierx, Rodrigues, *cit.*

66 For instance, Wells, 2015, no. 8: "Known for legalized marijuana and prostitution, acceptance of same-sex relationships, and tolerance of medical processes like euthanasia and abortion, at first glance the country appears to be an idyllic haven for open-mindedness. However, when analyzing the cultural traditions, politics, education, and other aspects of everyday life in the country, a long-lasting history of racism and prejudice is revealed. Those of minority religions or of certain origins different than that of the typical Dutch citizen (often stereotyped as tall, white, and blonde) face a challenging life in the country" (p. 1).

67 See Houwerzijl, 2019, p. 71.

68 This directive modifies the former no. 2006/22/CE.

69 The deadline was 2.02.2022.

70 See <https://ec.europa.eu/commission/presscorner/>.

5. Incoming and Outgoing Labour Flows in Italy and the Netherlands

In 2022, foreigners residing in the 27 countries of the EU accounted for 37.8 million, or 8.5% of the total population. According to the Ministry of Labour and Social Policies' Annual Report of 2023 regarding foreigners in the Italian labour market,⁷¹ over 70% of foreigners resided in four countries: Germany,⁷² Spain,⁷³ France⁷⁴ and Italy. In the latter country there were 5 million resident foreigners, of which 2.3 million were employed.⁷⁵ Although the presence of foreign workers in Italy is varied and exceeds the borders of the European Union, the report shows that eastern countries' citizens - especially those from Romania,⁷⁶ Poland, and Bulgaria - form a significant bloc of them. A large number of cross-border workers come from Slovenia and Croatia, which is reasonable given the geographical proximity to Italy.⁷⁷

Although occupations vary in terms of tasks performed and skills required, the sectors with the highest incidence of foreign workers are agriculture, construction, catering, tourism, road transport, and domestic work.⁷⁸

However, besides the high number of incoming cross-border workers,⁷⁹ there are also outgoing frontier commuters from Italy, especially towards Switzerland.⁸⁰

In contrast, the incoming and outgoing labour flows in the Netherlands are quite different than Italy's flows. According to data from the Dutch Statistics Office,⁸¹ there are more incoming workers – especially from Belgium – than outgoing ones.

71 See <https://www.lavoro.gov.it/temi-e-priorita-immigrazione/focus/xiii-rapporto-mdl-stranieri-2023>.

72 10,9 million.

73 5.4 million.

74 5.3 million.

75 Which is 10% of the total number of employees in Italy.

76 With an increase of 0.7% compared to the previous year.

77 See par. 3 of this essay. For an analysis of the situation in the border region of Friuli-Venezia Giulia, see NUNIN, *cit.*, p. 259.

78 See also European Commission, *2017 Annual Report on Intra-EU Labour Mobility*, available at: https://ec.europa.eu/futurium/en/system/files/ged/2017_report_on_intra-eu_labour_mobility.pdf.

79 In the absence of a structured system for tracking cross-border workers, the estimated number, based on detection of passages at the Transalpina station and foreign mobile telephone users, varies between 15,000 and 18,000 cross-border workers per day: see Regione Friuli Venezia Giulia, 2020. See also the most recent data available at: <https://www.rainews.it/tgr/fvg/video/2022/10/gorizia-transalpina-confronto-lavoro-transfrontaliero-dede4f1c-e1be-47a1-ba05-baa918a6f397.html>

80 Data available at: <https://www.bfs.admin.ch/news/it/2023-0507>

81 <https://www.cbs.nl/en-gb>

In fact, frontier workers make up a significant part of workforce in the Netherlands – ranging from 15% to about 40% – especially for companies located near the border. In 2019 cross-border workers accounted for at least 1% in many regions, with significant peaks in Zuid-Limburg,⁸² Zeeuws-Vlaanderen,⁸³ Noord-Limburg,⁸⁴ Midden-Limburg,⁸⁵ and Zuidoost-Noord-Brabant.⁸⁶ For certain sectors, border locations are often the best places to settle in Dutch regions. For multinational companies, that type of location is advantageous for recruiting international and multilingual staff, with the best skills.

In almost all sectors in the Dutch labour market qualified personnel are needed because of the insufficiency of the native Dutch workforce. Indeed, in the Netherlands there are 133 vacancies for every 100 unemployed people.⁸⁷ This factor is consequential to the low unemployment rate recorded there.⁸⁸

6.

Challenges in Equal Treatment Between Cross-Border and National Workers

Despite the differences in geographical and socio-economic factors, the challenges for cross-border workers in Italy and the Netherlands are similar. For example, social dumping – where foreign workers receive lower pay or worse working conditions compared to domestic employees – is a risk in both countries.

Although this is a recurring term in debates related to workers' mobility and security, social dumping does not have a generally accepted definition. It is often considered a 'vague concept', and "legal experts, economists, social scientists all have their own conception."⁸⁹ Even though there are different perspectives on the term, there is a common agreement that it has a 'negative connotation'. The phenomenon signifies, at the same time, exploitation of workers and unfair competition between companies. It is a set of practices carried out on an international, national, or inter-corporate level. It is aimed at gaining an advantage over competitors due to application of different wages and social protection rules to different categories of workers.⁹⁰

82 5.5%.

83 4.1%.

84 4.6%.

85 3.7%.

86 2.2%.

87 <https://nltimes.nl/2022/05/17/dutch-labor-market-super-tight>

88 As reported in par. 3 of this essay.

89 Jorens, 2022, p. 375.

90 Bernaciak (ed.), 2015; Buelens and Rigaux (ed.), 2016; Kiss, 2017.

In some cases it might consist of different treatments or discrimination based on the nationality. As such it contributes to the vulnerability of workers.⁹¹

For cross-border workers, social dumping may be the result of the following critical issues: higher taxation, greater difficulties in accessing social benefits and working arrangements, and the risk of undeclared work.

Due to the lack of a regulatory framework, cross-border workers risk double taxation. In fact, their income from work could be taxed both in the country of residence and in the country where the work is carried out. Not only is it an economic burden on workers, but it also is an obstacle to free movement within the EU.

The only way to avoid double taxation and its consequences is signing bilateral taxation agreements. Italy has just revised the agreement with Switzerland,⁹² which contains the definitions⁹³ of 'frontier area'⁹⁴ and 'frontier workers',⁹⁵ establishes the prohibition against double taxation,⁹⁶ and reaffirms the principle of non-discrimination.⁹⁷

Even the Netherlands has just updated its double tax treaty with Belgium.⁹⁸ However, it still needs to be approved by both parliaments to become effective.⁹⁹ The revision of the existing treaty concerns a simplification of applicable rules and aims at combating abuse. In essence, the treaty prevents workers from paying tax in both countries. According to the new treaty, income from work must be taxed in the country where work was carried out.¹⁰⁰

All agreements on the matter have similar purposes, i.e. avoiding double taxation and preventing exploitation. However, the sheer number of existing treaties and different modalities of their discipline may create great confusion and uncertainty. Therefore, a multiplicity of bilateral agreements can be a temporary solution.

91 A clear example may concern companies who engage cheaper and more vulnerable agency workers or relocate production to lower wage and less regulated locations. Social dumping may take different forms in different sectors.

92 Bilateral taxation agreement between Italy and Switzerland was ratified in Italy with law 13.06.2023, no. 83 and has been in force since the first July 2023. There is also a bilateral agreement with Slovenia, in force since 2002.

93 Art. 2 of the agreement.

94 Regarding Italy, frontier areas are considered the Regions of Lombardy, Piedmont, Valle d'Aosta and the Autonomous Province of Bolzano.

95 Frontier workers must be tax resident in a municipality whose territory is located, totally or partially, in the area 20 km from border with the other contracting State and should come back daily to its own principal domicile in the State of residence.

96 Art. 3.

97 Art. 4.

98 On 21.06.2023 the relevant ministers of the two Countries signed the new tax treaty. The previous treaty, still in force, was signed in 2001 and modified in 2009.

99 This is not expected to be until 2025.

100 Nevertheless, there are some exceptions in specific situation: for instance, working for government, working in education, working on board a ship or aircraft, etc...

However, the most effective remedy would be a homogeneous regulation on this relevant topic, valid throughout the EU member states.

Under no circumstances should access to social benefits be more difficult for cross-border workers than for domestic ones. If so, it would be an obstacle to equal treatment and a failure of the principle of free movement within the EU. Even though rules have been established, sometimes they do not work in practice, as attested by the interesting and lively case law in both countries.

A recent episode of the problem in accessing social benefits can be seen in foreign lecturers working in Italian universities. Although Italian law provides an acceptable framework for the so-called reconstruction of careers of foreign lecturers,¹⁰¹ in practice most universities do not adequately respect the EU rules on free movement and non-discrimination based on nationality. They do not provide for a correct reconstruction of foreign lecturers' careers. This includes the adjustment of their salary, seniority and corresponding social security benefits to those of a researcher under a part-time contract. Therefore, most foreign lecturers have not received the money and benefits to which they are entitled. Consequently, the European Commission decided to refer Italy to the Court of Justice of the European Union,¹⁰² claiming that Italy had violated the principle of non-discrimination due to nationality in another EU member state in regards to employment access and conditions of work.¹⁰³

This is not an isolated case. In one of the Italian regions with the greatest presence of cross-border workers – i.e. Friuli Venezia Giulia – a regional law breached the principle of equal treatment.¹⁰⁴ It reserved sickness benefit to residents in Italy for at least ten years, of which five specifically in the region. Restricting access to social benefits favours those who are native and most deeply rooted in the region. This constitutes indirect discrimination based on nationality.¹⁰⁵

Similarly, on this issue, the EU Court of Justice declared against the Netherlands for requiring foreign workers and dependent family members to comply with residence conditions. In particular, this pertains to the 'three out of six years' rule, which conflicts with obligations under Art. 45 TFEU and Art. 7(2) of Regulation no. 1612/68 on freedom of movement for workers within the EU.¹⁰⁶

Because of the lack of a single social security system valid throughout the EU, case law plays a fundamental role in protecting cross-border rights and ensuring

101 As recognised by the Court of Justice of the European Union in case C-119/04, settled on 18.07.2006, available at: <https://curia.europa.eu>

102 Available at: https://ec.europa.eu/commission/presscorner/detail/en/ip_23_3480

103 Art. 45 TFEU and art. 7 of Regulation EU no. 492/2011.

104 According to art. 117 of the Italian Constitution, regional normative provisions must respect not only the Constitution itself, but also the constraints of the EU regulatory system.

105 See Court of Udine 29.06.2010, in *D&L*, 2010, p. 874, which disapplied regional law 7.11.2006.

106 See CJEU 14.06.2012, C-542/09, *European Commission v. Kingdom of the Netherlands*, available at: <https://eur-lex.europa.eu/>

the principle of equal treatment in accessing social benefits, both at national and supranational level.¹⁰⁷ As noted, implementation of these rights "became a matter of jurisdiction rather than legislation."¹⁰⁸

The number and variety of controversies on the matter are the clearest sign that freedom of movement and its effects,¹⁰⁹ although generally transposed into national legislation, are not yet sufficiently internalised.

Digital transformation of the labour market, especially due to the COVID-19 pandemic and its impact on the increase in remote working, may also affect working conditions of cross-border workers. Accessing remote work may be a bone of contention between cross-border and domestic workers. While national employees can easily take advantage of remote work,¹¹⁰ frontier workers would be cut off from this possibility in order to comply with the strict provisions of bilateral agreements on the matter.

Furthermore, Art. 13 of Regulation no. 883/2004, which is applicable legislation for cross-border workers, establishes that an employee who normally pursues an activity in two or more member states shall be subject to the legislation of the member state of residence if they pursue a substantial part of work¹¹¹ in that member state.¹¹² During the COVID-19 pandemic, a Guidance Note¹¹³ was issued to clarify that telework in a member state other than the usual country of employment, due to health emergency, should not change the applicable legislation, even when working from home exceeds 25% of activity.

Considering the changed post-pandemic social context – where telework has become a structural way of working for many employees – the greater difficulty in using remote work for cross-border employees would have represented an obstacle to free movement and equal treatment in employment. Therefore, a framework agreement for habitual cross-border telework has recently been promoted by the Administrative Commission for the coordination of social security systems.¹¹⁴ It has been signed by 18 member states so far. This agreement¹¹⁵ – which implements

107 It is appropriate to point out a recent CJEU ruling on the matter: 15.06.2023, C-411/2022, Thermalhotel Fontana Hotelbetriebsgesellschaft m.b.H. v. Bezirkshauptmannschaft Südoststeiermark, available at: <https://eur-lex.europa.eu/>

108 Grimm, 2015, p. 467.

109 I.e. equal treatment and non-discrimination on grounds of nationality.

110 This modality of carrying out working performance may allow reduction in commuting time, better work-life balance, more flexibility in working time organisation, and higher productivity.

111 According to art. 14 (8) of the Implementation Regulation no. 987/2009, substantial part is more than 25% of the activity.

112 So-called *lex loci domicilii*.

113 For the period between 1.02.2020 and 30.06.2022: see the revised version as of 25/11/2021 - AC 074/20REV3 available at: <https://ec.europa.eu/social/main.jsp?catId=868&langId=en>

114 For a comment on the agreement see Aceto, 25.09.2023.

115 Entered into force on 01.07.2023.

Art. 16 (1) of Regulation no. 883/2004¹¹⁶ – only disciplines cross-border telework and constitutes an exception to Art. 13.

Although the purpose of the framework agreement is to identify applicable legislation and simplify procedures, some critical issues are recognisable. Firstly, both the member state of residence and employment must have signed it.¹¹⁷ While the Netherlands has already approved it, in Italy it is still in discussion.

Secondly, according to Art. 3 of the agreement, cross-border telework should be carried out in the state of residence less than 50% of the total working time. Therefore, unlike for national workers, cross-border employees' flexibility is strongly constrained.

Although "considered a reasonable compromise",¹¹⁸ this agreement is yet another demonstration of the urgency for true harmonisation between national regulations.¹¹⁹

Remote work presents opportunities as well as challenges for all employees, especially in the areas of occupational health and safety. This includes psychosocial issues related to hyper-connection, overworking, blurring boundaries between personal and professional life, etc. Challenges related to cybersecurity and data protection must also be addressed. In the case of cross-border workers these issues may be amplified, due to the possible differences in various national regulatory provisions.

Because the movement of cross-border workers is frequently not monitored, their risk of undeclared work is even more likely than for national ones.

Despite being a topic of great media interest, it is not easy to define irregular work according to traditional legal categories. It is an ancient and complex phenomenon. Not only is it widespread but it is varied because 'irregular work' as genus presents numerous species. It can be difficult to distinguish what constitutes undocumented work,¹²⁰ illegal work,¹²¹ and informal employment.¹²² Undeclared work is the definition adopted by the European Union for the first time in 1998.¹²³ It means "any paid

116 Art. 16 (1) establishes the possibility that two or more Member States, or the competent authorities of these Member States or the bodies designated by these authorities may, by common agreement, provide for exceptions to conditions in art.s 11-15 of Regulation no. 883/2004, in the interest of certain persons or categories of persons.

117 Art. 2 of Framework Agreement.

118 Aceto, *cit.*

119 From a tax perspective, circular no. 25/E of 18.08.2023 issued by the Italian Tax Agency provided clarifications on use of remote working and consequent tax regulation for cross-border workers, also to counter abuse of fictitious residences abroad.

120 Calafà, 2017.

121 This expression generally refers to irregular work carried out by individuals illegally present on the national territory (European Commission, 2014, p. 8) or to illegal activity in itself.

122 Vermeylen, 2008.

123 European Commission, 1998.

activities that are lawful as regards their nature, but not declared to public authorities, taking into account differences in the regulatory systems of the Member States."¹²⁴

Not all EU member states have an express regulatory reference to undeclared work¹²⁵ or even use the same term. Depending on regulatory provisions, Italy uses the term 'irregular work'¹²⁶ – to mean the employment relationship for which the obligations in civil, administrative, fiscal, social security and insurance matters have not been fulfilled, in whole or in part – or 'black work'¹²⁷ when the violation is total. Conversely, the Netherlands prefers the term 'illegal employment' for every kind of exploitation of workers (i.e. dangerous and unhealthy working conditions, being underpaid, working without registration for income tax and social security, etc.).¹²⁸

This phenomenon is a challenge that negatively affects workers, companies and governments across Europe in different ways.¹²⁹ It may have far-reaching consequences, including breaching of workers' rights, unfair competition, and reduced tax revenues.¹³⁰ At EU level the most effective measure was the creation of the European Platform. It made a permanent working group of the European Labour Authority to tackle undeclared work since 26 May 2021. At the national level the fight against undeclared work relies mostly on the actions of labour inspectorates. However, besides deterrent measures, preventive policies – such as tax incentives, amnesties, awareness raising – may be useful to decrease the incidences of undeclared work and facilitate compliance with existing rules.

Undeclared work is a serious issue both in Italy and in the Netherlands. Evidence of the problem can be seen in the annual reports on supervisory activity in labour and social security written by the Italian Labour Inspectorate¹³¹ and the Dutch documents on the matter.¹³² The data shows that cross-border workers are in one of the most vulnerable categories. Italy's latest reports highlight alarming incidences of illicit transnational posting in the northern Italian regions, especially in transport, construction, and health services.¹³³ Domestic work is another sector that is char-

124 See opinion of the European Economic and Social Committee no. 2014/C - 177/02 on "*A strategy to combat the black economy and undeclared work*", available at: eur-lex.europa.eu

125 Robert, 2014.

126 Art. 1 of law 18.10.2001, no. 383.

127 Art. 36-*bis* of decree-law 4.07.2006, no. 223, converted by law 4.08.2006, no. 248.

128 See <https://www.nllabourauthority.nl/topics/illegal-employment>. See also factsheet on undeclared work in the Netherlands in www.europa.eu.

129 See characteristics of undeclared work across all 27 EU Countries, and the institutions and policy responses available at: <https://ec.europa.eu/social/main.jsp?catId=1322&langId=en>

130 On the topic, Russo, 2018, p. 876.

131 <https://www.ispettorato.gov.it/attivita-studi-e-statistiche/monitoraggio-e-report/rapporti-annuali-sullattivita-di-vigilanza-in-materia-di-lavoro-e-previdenziale/>

132 See <https://www.cbs.nl/en-gb> and <https://www.nllabourauthority.nl/>.

133 Ispettorato Nazionale del Lavoro, 2022, p. 40.

acterised by a high rate of irregularities.¹³⁴ Since this area lacks good data, it is often overlooked by supervisory reports.

In the Netherlands, the Dutch Labour Inspectorate carefully monitors compliance with the Posted Workers in the European Union Act (*Wet arbeidsvoorwaarden gedetacheerde werknemers in de Europese Unie*). It provides better protection for these workers and combats unfair competition based on employment conditions,¹³⁵ especially in sectors of construction, maritime/shipbuilding and transport industries.¹³⁶

In order to avoid dangerous consequences of undeclared work on cross-border employees, the only available remedies may be implementing labour inspections both at national and EU level, and promoting a culture of integration and legality for safer and more decent work, regardless of border and nationality.

7.

Brief Conclusions and Prospects for Strengthening Free Movement of Workers

It is clear that cross-border workers' protection is guaranteed – in theory – by general rules on the right to freedom of movement within the EU. This is constitutionalised in the treaties and progressively interpreted by the EU Court of Justice. Nevertheless, in practice many challenges need to be overcome.

The reasons for the gaps between theory and practice are numerous. Firstly, from a political viewpoint the last two decades have seen increased labour mobility become more heterogeneous.¹³⁷ Much of this is due to Eastern enlargements¹³⁸ that have led to migration flows from East to West.¹³⁹ Secondly, from a sociological perspective, an obstacle to full integration may be because of the public perception of cross-border workers. Studies on the issue show that less-educated persons consider free movement of workers as a threat to their jobs.¹⁴⁰ Moreover, from a legal viewpoint the complexity of harmonising national legislations cannot be underestimated, above all in the field of social security, which has remained a national competence. Thus,

134 Nunin, *cit.*, p. 263.

135 <https://www.government.nl/topics/foreign-citizens-working-in-the-netherlands/employment-conditions-for-posted-workers-in-the-eu>

136 Houwerzijl, 2018, p. 22.

137 For instance, regarding wage levels and working conditions.

138 Poland, Hungary, Slovenia, the Czech Republic, Slovakia, Latvia, Estonia, Lithuania, Cyprus, and Malta joined the EU in 2004. In 2007 Bulgaria and Romania were added. The last entry was Croatia in 2013.

139 Roos, 2019, p. 631.

140 Toshkov, Kortenska, 2015, p. 910; Vasilopoulou, Talving, 2019, p. 805.

coordination of national welfare systems may be essential to promote and facilitate free movement of workers within the EU.

Because of this contentious framework, it is no wonder that there were a significant number of infringement procedures initiated by the EU Commission against both the countries examined in this study.¹⁴¹ Without going into details, they concern both the late communication to the EU Commission about the measures chosen to implement the directives, and the failure or the incorrect application of the EU regulatory provisions. Such procedures could involve the Court of Justice and lead to an economic penalty. Over time it could become a great cost to the state.

In conclusion, since free movement of workers cannot be taken for granted, what could be the most effective measures to strengthen it and protect cross-border workers?

At the EU level, the first point to address should just be creating a clear definition of cross-border workers. Indeed, these workers lack a uniform classification. Additionally, there is the issue of different disciplines, which depends on the criteria used for different groups of workers (i.e., frontier workers, seasonal workers, posted workers, etc.). These differing terms could increase confusion and thereby weaken worker safeguards even though these employees may have the same characteristics and vulnerabilities, i.e., they live in one member state and work in another.¹⁴²

In regard to the principle of equal treatment, cross-border workers are pioneers of European integration and effective compliance. Therefore, the harmonisation of national regulatory frameworks should be a priority. This is especially true for the issues of granting social benefits and avoiding higher taxation. Furthermore, greater cooperation of European and national authorities to supply proper information and verify rule compliance should be included in the agenda.

Only with these essential tools will it be possible to reinforce free movement of workers, which is the cornerstone of European citizenship.

141 In the first half of 2020, 22 infringement procedures against Italy and 5 against the Netherlands were promoted. See www.openpolis.it.

142 Unlike EU migrant workers, who leave their country of origin completely, with or without their family, to live and work in another Member State.

Bibliography

- Aceto, *Cross-border telework and social security: A new multilateral Framework Agreement*, in *Global Workplace Law & Policy*, Wolters Kluwer, 25.09.2023, in <https://global-workplace-law-and-policy.kluwerlawonline.com/2023/09/25/cross-border-telework-and-social-security-a-new-multilateral-framework-agreement>;
- Barbera, *Discriminazioni ed eguaglianza nel rapporto di lavoro*, Giuffrè, 1991.
- Barbera, *Eguaglianza e differenza nella nuova stagione del diritto antidiscriminatorio comunitario*, in *DRI*, 2003.
- Barbera, *Il nuovo diritto antidiscriminatorio. Il quadro comunitario e nazionale*, Giuffrè, 2007;
- Ben-Israel, Foubert, *Equality and Prohibition of Discrimination in Employment*, in Blanpain (ed.), *Comparative Labour Law and Industrial Relations in Industrialised Countries*, Kluwer Law International, 2004.
- Bernaciak (ed.), *Market expansion and social dumping in Europe*, Routledge, 2015.
- Blanpain, *Comparativism in Labor Law and Industrial Relations*, in Blanpain (ed.), *Comparative Labour Law and Industrial Relations in Industrialized Economies*, Kluwer Law International, 2010.
- Buelens, Rigiaux (ed.), *From Social Competition to Social Dumping*, Intersentia, 2016.
- Calafà, *Undocumented work (by foreigners) and sanctions. The situation in Italy*, in *WP C.S.D.L.E. "Massimo D'Antona"*, 2017, no. 321.
- Dierx, Rodrigues, *The Dutch Equal Treatment Act in theory and practice*, in <http://www.errc.org/roma-rights-journal/the-dutch-equal-treatment-act-in-theory-and-practice>, 2003.
- Distler, Essers, *Guide for mobile European workers*, ETUC, 2011.
- ELA, *Consolidated Annual Activity Report 2022*, 2023.
- European Commission, *Communication on Undeclared Work*, 7.04.1998.
- European Commission, *Undeclared Work in the European Union*, Special Eurobarometer 402, 2014.
- European Commission, *2017 Annual Report on Intra-EU Labour Mobility*, in https://ec.europa.eu/futurium/en/system/files/ged/2017_report_on_intra-eu_labour_mobility.pdf;
- Fuchs, *Distacco – Il quadro normativo di diritto europeo del lavoro e della sicurezza sociale*, in *RIDL*, 2018, I.
- Grimm, *The Democratic Costs of Constitutionalisation: The European Case*, in *European Law Journal*, 2015, no. 4.
- Houwerzijl, *The analysis of the posting of workers directive(s) with a specific focus on EU cross-border road transport*, in Zwanenburg, Bednarowicz (ed.), *Cross-border*

employment and social rights in the EU road transport sector, Eleven International Publishing, 2019.

- Houwerzijl, *Regulations (and practice) regarding wages and compensation for posted workers to the Netherlands: Country report*, in Alsos, Mette Ødegård (ed.), *Reguleringer for utsendte arbeidstakere*, Fafo, 2018.
- Houwerzijl, Berntsen, *Posting of workers: From a blurred notion associated with 'cheap labour' to a tool for 'fair labour mobility'?*, in Arnholtz, Lillie (ed.), *Posted work in the European Union, the political economy of free movement*, Routledge Research in Employment Relations, 2020.
- Houwerzijl, van Hoek, *'Posting' and 'posted' workers: the need for clear definitions of two key concepts of the posting of workers directive*, in Barnard, Gehring, Solanke (ed.), *Cambridge yearbook of European legal studies*, Hart Publishing, 2012.
- Ispettorato Nazionale del Lavoro, *Rapporto annuale delle attività di tutela e vigilanza in materia di lavoro e legislazione sociale – anno 2022*, in www.ispettorato.gov.it.
- Jorens, *Cross-border EU employment and its enforcement. Analysis of the Labour and Social Security Law Aspects and a Quest for Solutions*, Springer, 2022.
- Kiss, *Understanding Social Dumping in the European Union*, European Parliament Research Service, 2017.
- Nunin, *Legalità e regolarità nel lavoro transfrontaliero*, in Brollo, Cester, Menghini (ed.), *Legalità e rapporti di lavoro. Incentivi e sanzioni*, Edizioni Univeristà Trieste, 2016.
- Paju, *The European Union and Social Security Law*, Bloomsbury Publishing, 2017.
- Regione Friuli Venezia Giulia, *Mobilità transfrontaliera del Friuli Venezia Giulia. Italia-Slovenia e Italia-Austria*, 2020, in www.regione.fvg.it;
- Robert, *Definig undeclared work in Europe*, ILO publications, 2014, in www.ilo.org;
- Rombouts, Houwerzijl, *Promoting or controlling cross-border temporary agency work*, in Pichrt, Koldinská (ed.), *Labour law and social protection in a globalized world: changing realities in selected areas of law and policy*, Wolters Kluwer, 2018, p. 127;
- Roos, *The (de-) Politicization of EU Freedom of Movement: Political Parties, Opportunities, and Policy Framing in Germany and the UK*, in *Comparative European Politics*, 2019, no. 5, p. 631;
- Russo, *Qualche riflessione sul lavoro irregolare*, in Confortini (ed.), *Giuseppe Santoro Passarelli Giurista della contemporaneità*, vol. II, Giappichelli, 2018.
- Shuibhne (ed.), *Revisiting the fundamentals of the free movement of persons in EU Law*, Oxford University Press, 2023.
- Spaventa, *Free Movement of Persons in the European Union: Barriers to Movement in their Constitutional Context*, Kluwer Law, 2007.
- Spaventa, *The free movement of workers in the Twenty-first century*, in Chalmers, Arnull (ed.), *The Oxford Handbook of European Union Law*, 2015.

- Stefanov, Mineva, Schönenberg, Vanden Broeck, *Cross-border sanctions in the area of undeclared work*, European Platform Tackling Undeclared Work, 2020.
- Toshkov, Kortenska, *Does Immigration Undermine Public Support for Integration in the European Union?*, in *JCM*, 2015, no. 4.
- Vasilopoulou, Talving, *Opportunity or Threat? Public Attitudes Towards EU Freedom of Movement*, in *JEPP*, 2019, no. 6.
- Vermeylen, *Informal employment in the European Union*, 2008, in *wiego.org*;
- Weiss, *The Future of Comparative Labour Law as an Academic Discipline and as a Practical Tool*, in *CLLPJ*, 2003.
- Wells, *The limits of tolerance: the Equal Treatment Act and discrimination in the Netherlands*, in *Young Historians Conference*, 2015, no. 8.