



Promising Practices for the Employment of Live-In Care Workers in Europe

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Abstract

Live-in care work poses challenges to standard labour law in terms of working hours and the private household as a workplace; domestic workers are often not fully included in protective scopes. This study explores regulatory approaches to the integration of live-in care workers into labour law from different European countries. It focuses on legal regulations that organise live-in care work in the form of an employment relationship and presents promising practices. Regulations vary with regard to their organisational structure; in some models, the care worker is employed directly by the care receiver, in others, by a third party, for example, a public service provider, a private agency or a co-operative. The selected countries are Spain, Italy and Switzerland; in addition, two co-operatives from the UK and Ireland are taken into consideration. Throughout the study, a problem-based rather than a country-based approach is taken, meaning it is structured along typical challenges for live-in care workers, for which best practice examples from the selected countries are given. The study provides analytical information on approaches to organising live-in care work as employment. It gives insights into different regulatory regimes and provides a basis for the development of an employment model that ensures both fair working conditions and high-quality care because good care requires well-rested and well-paid care workers.

This study has been developed in the framework of the project Care4Care, which aims to improve the situation of live-in care workers in Austria with regard to their actual working conditions and access to social and labour rights. The study contributes to the Care4Care project by examining promising practices from other European countries. It aims not only to provide new ideas for the implementation of a practical employment model in Austria but to give insights into innovative approaches across Europe.

Executive Summary

In this study, regulatory frameworks for the employment of domestic care workers in Spain, Italy and Switzerland were examined to highlight promising practices. In addition, two co-operatives, Equal Care (UK) and Great Care (Ireland), were taken into consideration. It clearly emerges that an employment model must serve and protect both care recipients and care workers; this is best ensured through formal employment with a third-party provider. Many regulatory challenges arise specifically in the context of direct household employment; the costs and administrative burdens for the employers as well as the exemption of household employment from standard labour law are major concerns.

The study presents several promising practices to address individual challenges in the context of direct household employment, but the general finding is that an employment model with a third-party employer is preferable for both workers and clients. Further, non-profit co-operatives prove to be an attractive model for establishing co-productive arrangements between recipients and caregivers and sustainable career options.

Seven thematic chapters presenting crucial regulatory challenges for the domestic care sector were defined, and promising practices from the examined countries are now presented. Regarding formalisation and information, the importance of written contracts and the availability of relevant legal documents in multiple languages and in clear and plain language can be highlighted. Recruitment and employment administration can be organised through employers' and workers' organisations, and digital tools might ease the administrative burden, especially when established in a non-profit way, as the example of the Equal Care platform shows. Challenges regarding probation periods and termination arise mostly in the context of direct household employment; the employer's death should not lead to the immediate loss of the worker's residence or affect their migration status. The observance of tenancy law might serve as a solution, and the inclusion of domestic care workers in unemployment benefit schemes reduces vulnerability. Yet, the most promising approach is employment with a third party, such as a public service provider, as it ensures sustainable employment independent of individual clients.

While the individual care receivers' needs must be catered for, working time standards must still be met, as good care requires well-rested care workers. Care workers deserve days off and holiday leave and must be compensated accordingly for overtime and night work. If the care need is greater than can be accommodated within existing working time standards, employers must employ more than one worker. Clear definitions of working and standby hours and resting periods are crucial to ensure compliance. Standby time as a typical feature of live-in care work is one of the most important points requiring regulation.

The Swiss 'on-call duty' requires that the worker can be reached by telephone and be on site within a certain time frame as an alternative to long standby hours. The involvement of family members and/or volunteers can bridge gaps if well organised, as the example of Equal Care's 'Care Teams' demonstrates. Regulations regarding health and safety at the workplace should apply, and as most domestic workers are women, maternity protection and protection from sexual harassment are of particular importance. Regarding remuneration, there are no justifications for a different treatment of domestic care workers or an exclusion from minimum wage regulations. Payment in kind should only be deductible from wages up to a maximum limit and must reflect the actual value of accommodation and food, for which precise standards must apply. Support for households in managing the costs of care should not be reached

through lower wages but through subsidies.

Finally, innovative approaches to labour inspection can help to find a balance between privacy and workplace protection and to enhance the implementation of relevant laws. The inspection of documents (contracts, time recordings, etc.) can take place without entering the household, but also on-site inspections at the private household with prior consent or a court order are possible.

Introduction: Challenges for the Legal Regulation of Domestic Care Work

The growing number of older adults in need of care and the decline of familial care make new approaches to the organisation of care necessary. In Europe, there is an increasing reliance on live-in care workers¹. These arrangements have the benefit of allowing the care receivers to remain in their homes with the support of a care worker but also raise issues with regard to regulation and worker protection. The private household as a workplace and the demanding working hours in elderly care pose challenges to standard labour law. On the one hand, domestic care work should be treated as any other work and regulated in a way that guarantees decent working conditions, fair wages and access to social security for workers. On the other, the specific circumstances of live-in care work, such as the private household as the workplace, the personal character of care work and the context of (circular) migration, entail specific vulnerabilities that must be taken seriously. This ambivalent character of both ‘work like any other’ and ‘work like no other’ as well as the International Labour Organisation (ILO) Convention 189 concerning Decent Work for Domestic Workers shape the discourse on domestic workers’ rights².

Migration policies shape the opportunities to work legally and create vulnerabilities; workers who depend on temporary work permits or work irregularly are at an especially high risk of exploitative working conditions. Circular migration of women between Eastern and Western Europe is common among citizens of countries that benefit from free mobility to and within the European Union. In such settings, workers are engaged in temporary circular employment in one country while traveling back and forth to their country of origin between working cycles³.

An overarching theme of this study with regard to understanding challenges and working conditions in domestic care work is whether the employment relationship is established directly between the worker and the household or a third party is included. Some specific difficulties arise if the private household is the employer. On the one hand, private households are often overwhelmed by the administrative and financial responsibilities that come with the role of the employer. On the other hand, employment with private households is often exempted from standard labour law protection. Therefore, the study takes into consideration how the organisational structure of employment in live-in care work is set up in the examined countries. It also looks into measures installed to support households in need of care with regard to their obligations as employers.

The objective of this study is to explore employment models for live-in care work across Europe that respond to these vulnerabilities and provide caregivers with rights. It presents different approaches to organising live-in care work as employment, including direct household employment, employment with a third-party, such as an agency or a public service provider, and co-operatives. It gives insights into three European regulatory regimes and the work and organisation of two non-profit co-operative care providers. The results offer a sound basis for the development of an employment model that ensures high-quality care and fair working conditions for the people providing it.

¹ Mairhuber/Allinger, *Transnationale Betreuungs- und Pflegekräfte in europäischen Privathaushalten* 2021.

² Blackett, *Regulatory Innovation on Decent Work for Domestic Workers in the Light of International Labour Organization Convention No. 189* 2018.

³ See the special issue of the *Journal of Immigrant & Refugee Studies* Vol 11/4 (2013): *Migrant Domestic and Care Workers in Circularity* edited by Triandafyllidou/Marchetti.

Overview of the Case Studies

This study takes a close look at the regulation of domestic care work in Spain, Italy and Switzerland; further, two co-operative models from the UK and Ireland are included. The countries were selected because they all have implemented promising practices for the employment of domestic care workers and show different approaches to organisation and regulation. Short portraits of the selected countries and co-operatives can be found in the appendix.

Italy was the first European country to ratify the ILO Convention 189, and live-in care work is regulated through a collective bargaining agreement⁴. Parties to the Contratto collettivo nazionale di lavoro (CCNL) are the employers' organisations Fidaldo and Domina, on the one side, and Filcams-CGIL, Fisascat-Cisl, UILTuCS, which are service unions, as well as Federcolf, the care givers' union, on the other. These organisations also take on many tasks in the practical organisation of care, such as the placement of care workers. Most care workers are employed directly by the household.

In **Switzerland**, live-in care workers must be employed either by the household or an intermediary. In the case of the latter, standard labour law, including workplace inspection, applies⁵. Employment within private households, on the other hand, is exempt from standard labour law⁶. Instead, regional and federal standard employment contracts (Normalarbeitsverträge, NAV) apply; however, deviations from these can be made by contract. In this study, the regional NAV for Basel is taken as an example in addition to the federal NAV.⁷ Self-employment is prohibited in the home care sector in Switzerland. In 2011, **Spain** adopted a regulatory decree that prescribed a special regime for live-in workers but grants near-normal protection after a reform in 2022.⁸ Spain also serves as an important example regarding the specific challenges arising at the intersection of live-in arrangements and the immigration status of third-country citizens. It does not restrict their right to change employers, and there are no legal restrictions on qualifying for long-term residence and family reunification for domestic workers; still, in practice, challenges remain. In all three countries, it is mainly migrant women who provide live-in care work. In Italy and Switzerland, many Eastern European women are employed in the care sector, while in Spain, a larger share of the workers are from non-EU countries, many from Latin America. In both Spain and Italy, informality remains a huge challenge in practice.⁹

Aside from the scoping of national policies and practices, two care co-operatives are included in this study: the **Equal Care Co-op** and the **Great Care Co-op**. They test innovative approaches to the organisation of elderly care on a smaller scale and serve as examples to show how care can be organised co-operatively.

⁴ Contratto collettivo nazionale di lavoro sulla disciplina del rapporto di lavoro domestico, signed by Fidaldo (Italian Federation of Employers of Domestic Workers) and Domina (National Employers' Association) on the employers' side and Filcams-CGIL (Italian Federation of Workers, Commerce, Tourism and Services), Fisascat-Cisl (Italian Federation of Trade Unions for Commercial, Related and Tourism Services), UILTuCS (Italian Union of Tourism Trade and Services workers) and Federcolf (Italian Trade Union Federation of Caregivers), 8/9/2020.

⁵ Following the judgement of the Swiss Federal Tribunal (Bundesgericht, BGE) 2C_470.2020, 22.12.2021.

⁶ Art. 2 para. 1 lit. g Bundesgesetz über die Arbeit in Industrie, Gewerbe und Handel (Arbeitsgesetz, ArG) vom 13.3.1964 (Swiss Labour Code).

⁷ 221.215.329.4 Verordnung über den Normalarbeitsvertrag für Arbeitnehmerinnen und Arbeitnehmer in der Hauswirtschaft (NAV Hauswirtschaft) vom 20.10.2010, SG 215.700 - Normalarbeitsvertrag für Arbeitnehmende im Haushalt einschliesslich der 24-Stunden-Betreuung im Kanton Basel-Stadt (NAV Haushalt BS) vom 25.8.2020.

⁸ Royal Decree 1620/2011, recently reformed through Royal Decree 1620/2022.

⁹ On Italy and Spain: Marchetti/Cherubini/Geymonat, *Global Domestic Workers 2021*, 44-50; on Switzerland: Benazha et al, *Live-in-Care im Ländervergleich*, in: Aulenbacher/Lutz/Schwiter, *Gute Sorge ohne gute Arbeit? 2021*, 20-45, 33.

Great Care is an Irish non-profit organisation with an additional constitution implementing co-operative principles. It was founded by the Migrant Rights Centre Ireland (MRCI), whose pilot project on workplace inspection is also included in the study.

Methodology and Structure

Based on desk research on the selected countries' regulatory frameworks and related literature, thematic areas representing the main challenges for the legal regulation of live-in care work were identified. Stakeholders and experts on the respective countries were consulted to gain additional insights and include their practical experiences. 13 online consultations took place between September and November 2022.

The findings are presented in thematic chapters, which address some of the most pressing questions on how to regulate the domestic care sector, including structural and organisational questions, as well as working conditions. The chapters cover aspects of access to and exit from employment, working time, remuneration, the protection of the workers' autonomy, health and safety as well as compliance and workplace control. Each chapter begins with a brief problem outline, followed by a presentation of the findings on promising practices and regulatory frameworks. For each topic, conclusions are then drawn, and examples of the most promising practices from the country approaches or the co-operatives are highlighted.

In the summary, the structural organisation of the different employment models is discussed to identify strengths and weaknesses of employment directly by the private household or by a third party. Short portraits of the selected countries and projects as well as a list of the stakeholder organisations consulted are included in the appendix. References to the relevant legal texts are provided in the footnotes; secondary literature on national legal systems and on problems of regulating care work, in general, can be found in the bibliography.

With regard to the limitations of this study, it should be noted that the important topic of inclusion of domestic workers into social security systems, such as health insurance as well as pension schemes, is only dealt with marginally, as are the challenges arising in the context of migration regimes and visa policies for third-country nationals. Stakeholders working with migrant domestic care workers from non-EU countries stress that dependencies in the context of work permits and visa policies are a major source of vulnerability to exploitation.

Thematic Chapters: Regulation of Working Conditions

This part is structured in thematic chapters, covering typical regulatory challenges for live-in care work. In each chapter, the findings from the selected countries are presented and conclusions are drawn to summarise the most important aspects and highlight examples of promising practices.

The thematic areas are:

1. Formalisation and Information
2. Recruitment and Employment Administration
3. Probation Periods, Termination and Loss of Residence
4. Working Time Regulation
5. Remuneration
6. Protection of Autonomy, Health and Safety
7. Implementation and Workplace Control

1. Formalisation and Information

Problem:

Informal employment and the lack of information are major sources of vulnerability for domestic care workers. Written contracts are important to formalise and recognise domestic care work as employment. They also serve as a source of information concerning the rights and obligations of both parties. Legal documents are often only available in the respective country's official language. Moreover, there are cases, especially in the context of migration, where several legal acts might be relevant. This makes it difficult to gain a comprehensive overview. It is crucial that information is actually accessible in terms of language and readability in accordance with the right to information as enshrined in both the EU Directive 91/533/EEC and Art 7 of the ILO Convention 189. Migrants are particularly vulnerable, as informal employment often entails an irregular migration status. Even in formal employment, the conditions upon which the right to stay is granted might make someone vulnerable to exploitation, for example, if permits are tied to a named employer or the right to change sectors is restricted.

Findings:

In Switzerland, a **copy of the regional and the federal standard employment contract (NAV)** must be provided to the care worker (§ 7 NAV Basel Aushändigungspflicht). **The scope of activities is clearly defined** in § 5 NAV Basel, and it is explicitly stated that the contract does not include medical care. The

daily working, standby and resting **time must either be agreed upon in the written contract** or specified in duty **schedules** at least two weeks in advance (§ 17 NAV Basel). Standby time is the time during which the worker is not actively engaged in work but must remain at the disposal of the person to be cared for.

In Spain, Art 4(4) of the Royal Decree 1620/2011 also prescribes the employer's obligation to provide the worker with written, timely and accurate information regarding the conditions of work, including wages, the regulation of standby time and its remuneration as well as the regulation of night work.

In Italy, Art 6 of the Collective Agreement stipulates which elements an employment contract must include and that it must be provided to the worker with a copy of the collective agreement. The parties to the collective agreement have decided to publish it in the **six languages** spoken by many of the care workers: English, Romanian, Filipino, Polish, Spanish and Italian. Workers' and employers' organisations play an important role in supplying information to both parties concerning their rights and obligations.

The Equal Care Co-op in the UK applies innovative approaches to grant workers and care receivers access to the relevant legal documents **online and in an accessible way**, including the use of plain **English** instead of legal terms, **audio files** summarising the registered rules and video clips. The organisation is also working on turning legal documents into graphic novel strips.¹⁰

Conclusion:

→ All examined countries regulate what an employment contract must include and stipulate that all relevant legal documents must be provided to the worker. **Written contracts** should include the hours, the wages and the scope of activities relating to the specific work relationship. **Reference to the general legal basis** further enables employees to check that standards for maximum hours or minimum wages are met.

→ Considering that care receivers, respectively their families, and care workers often have a limited understanding of the law, it is important to make legal documents and summaries of their relevant content as accessible as possible. They should be available in **multiple languages** and **in clear and plain language**.

→ Easier access to information can be achieved by the **creative use of online tools, visualisation and audio files**.

Promising Practice:

The Collective Agreement for Domestic Workers in Italy is published in the six languages that are most commonly spoken amongst domestic care workers.

¹⁰ <https://work.equalcare.coop>

2. Recruitment and Employment Administration

Problem:

Many private households struggle with the responsibilities that come with the role of the employer, especially with the administrative burden. The live-in setting and the intimate character of care work make good matching particularly important, and the search for a suitable domestic care worker poses a challenge to private household employers.

Findings:

In Italy, recruitment is organised mainly through informal networks, churches or trade unions. Trade unions have internal registries. According to stakeholder consultations, they are currently seeking to develop an official registry. The **employers' associations as well as trade unions support families in the search for and the administration of domestic employees**, as most care receivers are union members. The National Social Security Institute (Istituto Nazionale Previdenza Sociale, INPS) also supports household employers: after choosing a domestic worker, the employer must send a notification of the hire to the INPS within 24 hours. An **online service and a call centre** aim to make both the hiring process and the registration easy for families. Following registration, according to the INPS website, 'terms and conditions are agreed upon in order to draw up an employment contract'. In practice, according to union representatives, a **model contract** on the basis of one of the four categories of the collective agreement is provided. The INPS also provides employers and domestic workers with an **online calculator** for social security contributions as well as a guide for calculating the 13th monthly payment and the annual leave. Employers can join the **notification service**, which allows for the receipt of due-date notifications for the payment of contributions. Agencies do not play a large role in Italy, as it is not possible to apply the collective agreement for domestic workers to temporary agency workers. Instead, another collective agreement would apply, which carries higher costs.

Another approach is to foster employment relationships with (public or private) service providers instead of individual private households. They can be organised as **three-party contractual relationships (staff leasing)**, with the care workers being employed by a service provider and sent to a household for a longer period of time, for example, a month, as it is usual in Switzerland. In 2021, the Swiss Federal Tribunal (Bundesgericht) ruled that, in these set-ups, standard labour law, including workplace inspection, is applicable.¹¹ The application of standard labour law brings better protection for workers but also higher costs for families if they are not subsidised.

Social vouchers, supported by social service providers, can also be used to reduce private households' administrative burden.¹² Families buy or receive vouchers from public providers that employ care workers and assign them to private households for a certain amount of time. Vouchers aim to make care services more accessible and affordable to the end user and formalise employment relations. In Italy, a

¹¹Judgement of the Swiss Federal Tribunal (Bundesgericht, BGer) 22.12.2021, 2C.470.2020.

¹²Belgium has introduced a large-scale service voucher system that enables households to purchase domestic services at low cost due to high subsidies. For more information on the Belgian Service Voucher System, see Desiere / De Wispelaere / Struyven, Labour Market Policy Thematic Review 2018: An analysis of Personal and Household Services to support work life balance for working parents and carers - Belgium, <https://ec.europa.eu/social/BlobServlet?docId=20319&langId=en>. For more general information on social vouchers as a promising practice for personal and health services, see Advancing Personal and Household Services (Ad-PHS), Social Voucher Programs: Tailored Guidance, <https://ad-phs.eu/ht8ag2/uploads/2021/08/tg-3-vouchers-programmes.en.pdf>.

company welfare voucher allows companies to provide employees with non-monetary benefits, such as health, long-term and family care. Employees can then access services supplied by a dedicated network of service providers.

The Equal Care Co-op in the UK uses its online platform for matching and involves **co-op members in recruitment and administration** on a freelance basis. Besides carrying out recruitment, the co-op also welcomes supported people to Equal Care and helps them administer the organisation of their personal care system while also offering training and peer support on a freelance basis to care workers. This formalises informal recruitment practices and gives care workers the opportunity to build new skill sets for **career development**. The platform lists not only care workers but also clients. This allows workers to actively apply for jobs with employers they find attractive and helps the co-op to plan for the care needs of the community by identifying people in need of support.

Conclusion:

→ **Employers' associations and trade unions** can support families in the search for and the administration of domestic employees.

→ **The involvement of care receivers and care workers** in the organisation of personal care leads to good results in matching and sustainable care relationships. **Non-profit and public online platforms** can be put to use to organise recruitment, identify clients and help to plan for the care needs of the community. Workers should be able to actively **submit applications** to possible employers.

→ **Digital tools** can be helpful in tackling the administrative challenges faced by private households as employers, for example, by calculating payments or sending automated notifications, as in the case of the Italian notification system.

→ While there are instruments to reduce the administrative burden for private households as employers, it is completely eliminated when the employment relationship is concluded with a **third party and/or where a social voucher system** is in place. If the employer is not the household, the question remains what kind of provider should serve as the employer. Non-profit and/or public service providers are preferable, as any financial surplus is reinvested into the organisation, leading to a better quality of care.

Promising Practices:

The online platform the Equal Care Co-op established is an example of an online tool that involves co-op members in recruiting and administration. **Formalised and non-profit online platforms** can be put to use to organise recruitment, identify clients and help to plan for the care needs of the community.

Digital tools can also ease the administrative burden for employers; the Italian INPS provides employers and domestic workers with an online calculator for social security contributions and leave and a notification service for the payment of contributions.

3. Probation Periods, Termination and Loss of Residence

Problem:

Domestic care work, especially in the context of migration, is often organised as a live-in arrangement, making it challenging to keep a professional distance and guarantee the privacy of both parties. As the care receiver's home is the workplace, it is important for both parties to find the right match and be able to exit the employment situation if problems arise. At the same time, job security and continuity of care must be granted. In cases where the client is also the employer, their death results in the immediate termination of employment, which often leads to the loss of residence for the worker. In the context of migration, the termination of employment might affect the visa status.

Findings:

In Switzerland, a one-month **probation period** during which a seven-day notice can be given stands at the beginning of the employment relationship. After the probation period, extended deadlines apply. In the case of **circular migration**, periods of work are added together so that workers can be granted longer notice periods and are not subjected to repeated probation periods after re-entering the country. §§ 12, 13 NAV Basel regulate termination; for reasons of provability in court, notice **must be given in writing**.

The immediate loss of housing in the case of termination is prevented in Switzerland, as the **right of residence is not linked to the employment relationship**. § 15 NAV Basel stipulates that in cases where the employer provides the employee with accommodation, the provisions and deadlines of **tenancy law must be observed in the case of termination** (Art 266 et seq OR). In fact, this regulation can also be advantageous for the employer, for example, if a notice period under labour law extends for a very long time due to a blocking period (for example, as a result of pregnancy). In the case of **termination because of the client's death, one month's salary is granted as compensation**. This means employees have a month of financial security. In the case of employment with a third party, this does not apply, as it is only the assignment and not the employment relationship that ends.

In Spain, the new Royal Decree 1620/2022 enhanced protection from unjust dismissal for domestic workers. The **compensation for unjustified dismissal** is now 33 days of their wage for each year of service - meaning they are treated equally to other workers. Following the Court of Justice of the European Union¹³, the previous lack of **protection against unemployment** for domestic workers constituted indirect discrimination against women.

Spanish **work permits** for third-country residents have an initial duration of one year and are renewable. During this first year, the migrant worker is restricted both to employment in the care sector and the geographical region for which the permit was granted. This is, of course, not ideal and is criticised by stakeholders. However, it does not restrict the **right to change employers**, and there are **no legal restrictions on qualifying for long-term residency and family reunification**. After three years, everyone can apply for 'arraigo social', a temporary residence and work permit designed for foreigners who have been living in Spain for three years in an irregular situation.

¹³ CJEU C-389/20, 24.2.2022, TGSS (Chômage des employés de maison) ECLI:EU:C:2022:120

Conclusion:

- > **A probation period** allows employers and employees to make sure they feel comfortable with co-habitation before extended deadlines for termination notice are set, protecting the worker and also the employer from untimely termination, especially in cases where a care recipient is heavily dependent on continuous care.
- > The termination of employment, especially the immediate termination in the case of the employer's death, should not lead to the immediate loss of the worker's residence. The **observance of tenancy law** when it comes to termination might serve as a solution.
- > The termination of employment should **not affect the worker's migration status**; permits tied to a named employer are a major source of vulnerability for migrant care workers, who should have the right to **change employers**.
- > The inclusion of domestic care workers in unemployment **benefit schemes** reduces their vulnerability to exploitation.
- > Employment with a third-party, such as a public service provider, ensures sustainable **employment independent of the health of individual clients**.

Promising Practice:

In Switzerland, the right of residence is not linked to the employment relationship, preventing the loss of housing in the case of termination, especially because of the employer's death.

§ 15 NAV Basel stipulates that in cases where the employer provides the employee with accommodation, the provisions and deadlines of tenancy law must be observed in the case of termination. In the case of **termination because of the client's death, one month's salary** is granted as compensation.

4. Working Time Regulation

Problem:

Long hours are typical for live-in care work. In many legal systems, specific regulations for the domestic sector allow for deviations from standard working time regulations. Weekend and night work are common and often not remunerated accordingly. The live-in situation and the flexibility needed to attend to care needs make it difficult to distinguish between working, standby and free time. During standby time, the worker is not actively engaged in work but must remain at the disposal of the person to be cared for. While the client's needs are indeed sometimes difficult to fit into a standard working schedule, the use of the term '24-hour care' with its implication of around-the-clock availability sets wrong expectations. Good care requires well-rested and well-paid care workers.

Findings:

Working Hours / Standby Time / Night Work

Art 9 (1) of the Spanish Royal Decree 1620/2011 sets a maximum of 40 working hours per week, which **corresponds to that of other sectors**. In addition, the parties may agree on certain hours of standby time, during which the worker is available to the employer without carrying out any tasks. The weekly limit for **standby time is 20 hours**, and it must be remunerated **at the same rate as normal working time** or compensated with additional rest time. A minimum of 12 consecutive hours of rest must be granted between shifts, but this may be reduced to ten hours, with the remaining two distributed over the course of four weeks.

In Switzerland, §§ 20, 21 NAV Basel give quite a clear structure for how to regulate working hours and standby time ('presence time' in the NAV) for direct household employment. Generally, § 20 NAV Basel allows for a maximum of 8,4 working and 11,6 standby hours per day, which adds up to 20 hours, leaving four hours of break time. This is possible because standby time is treated both as part of the employee's **compensated duties and a resting period** because it is seen as a less strenuous working activity. If this twofold character is not given, that is, if on-duty time is not actually less strenuous because the care worker has to get up several times every night over a longer period of time, § 20 para 3 NAV Basel stipulates that care by one person alone is not reasonable. In the case of such demanding care needs, care workers may only be employed on a **50 percent basis**. It is up to the employer to organise the care accordingly and, **in the case of a greater need for care, to employ several (at least two) employees**. An **alternative to 'presence time' is 'on-call duty'**, during which employees are allowed to be away from the household but must be contactable by telephone at all times if necessary and be able to be at the place of work within a certain time frame, for example, 30 minutes. § 18 NAV Basel regulates that both options are **possible and must be remunerated equally**.

§ 24 NAV Basel defines **night work** as work performed between 11 p.m. and 6 a.m. It is only permissible in exceptional cases and with the employee's consent and shall be compensated with a **surcharge of at least 25 percent** on the gross wage. The NAV Basel requires parties to agree on the daily working, on-duty and rest time in the written contract or specified in duty schedules at least two weeks in advance. In 2021, the Federal Tribunal clarified that in the context of **three-party arrangements**, when the care worker is employed by a firm, the exceptional provision in the Labour Code for private households and the NAV working time regulations do not apply¹⁴. In such cases, **standard working time regulations** apply.

¹⁴Judgement of the Swiss Federal Tribunal (Bundesgericht, BGer) 22.12.2021, 2C_470.2020.

The Italian Collective Agreement also gives clear instructions regarding a maximum daily working time of eight to ten (non-consecutive) hours. It also establishes an entitlement to remuneration of an extra **20 percent for night work** if live-in staff is not explicitly employed for night work; in this case, separate working time norms and hourly wages are specified. In any case, eleven hours of rest after every 24 consecutive hours must be granted. Art 8 introduces the possibility of **job sharing**, where at least two care workers are hired by the same household and work in shifts.

Coordination between the different stakeholders involved in each care setting is required. This might include domestic care worker(s), other care professionals, such as nurses, family members or volunteers. This is important not only to meet personalised care needs but also to uphold working schedules and ensure that care is provided during the domestic worker's time off. The Equal Care Co-op in the UK uses 'Care Teams', headed by the care receiver if possible. 'Care Teams' connect all people involved via a digital tool provided by the co-operative.

Weekends

The Spanish regulation guarantees **weekly rest periods of 36 consecutive hours**, and it specifies that it is customary to grant these on the **weekend**. Having a set day off during the week is particularly important for domestic workers, who normally work in an isolated workplace, as it allows them to meet their peers; 'this is an essential condition to collective organization and mobilizing'.¹⁵

In Switzerland, § 26 NAV Basel also states that employees shall be granted **two days off each week**. A day off comprises 24 consecutive hours. At least twice a month, the two weekly days off shall be granted consecutively. Switzerland, like Spain, recommends Sundays but adds that **one free working day**, or two half days, should be granted too. Visits to doctors or official offices that are not possible or reasonable during free time shall be made possible for employees during working hours without a corresponding deduction from their free time.

Art 13 of the Italian Collective Agreement states that weekly rest periods for live-in employees amount to **36 hours** and must be enjoyed for 24 hours on Sunday, while the remaining 12 hours can be enjoyed on any other day of the week, as agreed between the parties. If the employee professes a **religious faith that provides for celebration on a day other than Sunday**, the parties may agree on a replacement.

Annual Leave

Art 9 (7) of the Spanish Royal Decree 1620/2011 grants 30 days of paid annual leave, which is the same entitlement as in other sectors; 15 days must be consecutive.

§ 28 NAV Basel grants four weeks of **annual holiday leave**, which is extended to five weeks for workers who have reached the age of 50.

Sick Leave

Art 39 NAV Basel states that, in the case of sickness or other absence from work through no fault of one's own, employees are entitled to continuation of pay for at least one month, depending on how long they have been working for the same employer.

¹⁵ Pavlou, Migrant domestic workers, vulnerability and the law: immigration and employments laws in Cyprus and Spain, 161.

Art 27 of the Italian Collective Agreement states that, in the case of illness, both live-in and live-out employees, once they have passed the probationary period, are entitled to keep their posts for ten to 180 days, depending on seniority. However, wage compensation is limited in the case of extended leave periods.

Conclusion:

→ **Clear definitions of working, standby and free time / resting periods** are important and the differences must be respected. Working schedules should be established in advance. Written schedules, in combination with the recording of hours worked, help make working time compliance verifiable.

→ **Standby time** is a typical feature of live-in care work and, therefore, one of the most important points requiring regulation. Requirements to remain in the household during standby time must be reviewed with great scrutiny in light of the importance of upholding the autonomy of the employee. The requirement to be available via telephone and to be at the household in a set amount of time serves as an alternative.

→ Like other workers, care workers deserve **days off and holiday leave** and must be compensated accordingly for overtime and night work. The needs of the care worker are to be considered when working schedules are established, and days off should be set in a manner that allows for socialising as well as accessing commercial and public infrastructure. In rural areas, shops are closed, and public transportation is not available on Sundays. Therefore, having a weekday off might be preferential to individual workers.

→ If the care needs are greater than can be accommodated within existing working time standards, employers must employ more than one worker. **Shift work or job sharing**, where at least two care workers take care of one person, might be suitable models, also depending on the involvement of family members and/or volunteers.

→ In the case of employment with a third party, who employs a number of care workers, shifts and substitutions in the case of leaves/sickness can be organised more easily. This is also an element brought forward by the co-operative Equal Care that works with **'Care Teams'** where care workers, family members and volunteers manage the care of individual clients and can plan ahead, allowing for longer/regular leave periods, which are particularly important for migrant care workers.

Promising Practice:

An alternative to long standby hours is 'on-call duty', during which employees are allowed to be away from the household but can be reached by telephone if necessary and must be at the place of work within a certain time frame - for example, 30 minutes. § 18 NAV Basel regulates that both options are possible and must be remunerated equally. In cases where care is especially demanding, more than one care worker needs to be employed. Moreover, job sharing and the involvement of 'Care Teams' (as in the case of the co-op Equal Care) could be implemented.

5. Remuneration

Problem:

Domestic care work is part of the low-wage sector in most countries. Household workers are often not covered by minimum wage regulations or are subjected to a lower minimum wage than other workers in the care sector. In live-in arrangements, payment in kind is deducted from the wage. Further, board and lodging expenses are deducted from wages in a manner that not always reflects the actual value of accommodation and food supplied to the domestic care worker. Overtime, weekend and night work are often not remunerated accordingly. The payment of fair hourly wages, including social security contributions and taxes, makes the employment of a live-in care worker more expensive for private households compared to self-employed workers or informal solutions. Furthermore, in the case of agency involvement, fees must be paid, often from both the clients and the workers.

Findings:

Art 8(2) of the Spanish Royal Decree 1620/2011 states that domestic care workers are entitled to the **national minimum wage**.¹⁶ This includes the entitlement to 13th and 14th monthly payments, severance payments, etc. **Payment in kind may not exceed 30 percent** of the total salary, and the deduction cannot reduce the salary below the minimum wage level. Further, to reduce informal employment, regional **tax deductions** for households employing domestic workers have been introduced on the level of autonomous communities in Spain.

In Switzerland, employees in the housekeeping sector are entitled to a **sectoral minimum wage** depending on the level of their qualifications.¹⁷ **Payment in kind** may be deducted according to the value of the service (food and accommodation) up to a **maximum** of 33 Swiss francs per day or 990 Swiss francs per month.¹⁸ According to stakeholder consultations, this deduction option is fully utilised in practice, although the value of accommodation and food provided does not in all cases actually amount to the full sum.

Also in Italy, a **sectoral minimum wage** according to certain job categories applies.¹⁹ Although it is part of the collective agreement, it is not subject to negotiations as in other sectors but adjusted by a commission and the labour ministry together with the standard values of board and lodging arrangements.²⁰ This arrangement is meant to address the historically difficult power relations but limits the capacity for higher increases. A change in the qualification category appears to be the most accessible step to higher wages, but, in practice, this is very difficult to negotiate individually, and clients tend to register workers in the lowest categories (and for the minimum number of hours). According to Art 37 of the Collective Agreement, an employee is entitled to an increase of four percent of the minimum contractual wage for every two years of service with the same employer.

¹⁶ The minimum inter-professional salary in Spain is 33.33 euros per day or 1.000 euros per month, divided into 14 annual payments (Royal Decree 152/2022).

¹⁷ Switzerland: starts with 19.2 Swiss francs per hour, which amounts to a monthly wage of 3,328 Swiss francs for a 40-hour week up to 4,160 Swiss francs for a 50-hour week for unskilled workers, up to 23.20 Swiss francs per hour, which amounts to 4,021.35 Swiss francs for a 40-hour week up to 5,026.65 Swiss francs for a 50-hour week for the highest qualification level. (Art 5 of the federal NAV Hauswirtschaft Bund, SR 221.215.329.4 iVm Staatssekretariat für Wirtschaft SECO, Informationen zum NAV Hauswirtschaft (Stand 11.2020)).

¹⁸ Art 7 NAV and Art 11 AHVV (831.101 Verordnung über die Alters- und Hinterlassenenversicherung, AHVV).

¹⁹ Italy: Classifications in Art 9 of the Collective Agreement, home care falls into the categories Super Level C: a) Family assistant who cares for non-sufficient persons (unskilled), including, if requested, performing the activities related to preparing meals and cleaning the house where the assisted live, 997.61 euros monthly up to 1,147.24 euros for night time assistance; or Super Level D, if skilled/professional, 1,232.33 euros up to 1,417.21 euros, according to the Appendix to the Collective Agreement, Tables A, D – according to background interviews, in practice, many care workers are categorised in lower levels to reduce their wages.

²⁰ A maximum of 5.61 euros daily; Appendix to the Collective Agreement, Table F.

Paying higher wages is one of the main goals of the co-operatives examined in this study. The Great Care Co-op in Ireland sets hourly rates of 28 euros for its clients and pays the workers wages of 14.5 euros per hour on a working day up to 18 euros on a Sunday, which, according to a representative of the co-op, amounts to about 30 percent more than average wages in the home care sector in Ireland. Further, the co-op covers **travel expenses and pays a five percent employer contribution to the workers' pension scheme**. The Equal Care Co-op's employment contract states in Art 4.2 that wages are **reviewed annually** and may be increased from time to time at the co-op's discretion without affecting the other terms of employment. Equal Care also has self-employed members who are obliged to set a **minimum hourly rate** so that care workers do not undercut each other's wages. However, both co-ops do not employ live-in care workers at the moment.

Conclusion:

- There are no justifications for a different treatment of domestic care workers regarding wages. Where a **national minimum-wage scheme exists**, domestic care workers must be included.

- The goal of supporting households in managing the costs of care should not be reached through lower wages but through subsidies. **Tax deductions** for households employing domestic workers can serve as a financial incentive to formalise domestic care work and promote proper employment.

- **Payment in kind** should only be deductible from wages up to a **maximum limit** and must reflect the actual value of accommodation and food. It must be kept in mind that the live-in situation contributes to the greater workload and caters more to the care receiver's than to the care worker's needs; therefore, wage deductions due to this situation should be kept low.

Promising Practice:

Art 8(2) of the Spanish Royal Decree 1620/2011 states that domestic care workers are entitled to the national minimum wage.

6. Protection of Autonomy, Health and Safety

Problem:

The fact that the place of work and the place of residence coincide makes it difficult for domestic care workers to maintain privacy and autonomy. Live-in care work is very demanding, both physically and emotionally. Accommodation does not always meet minimum standards. A major source of vulnerability for domestic workers is the lack of health and safety regulations for private households. Long hours, sub-standard accommodation and heavy lifting pose health risks. Many care workers suffer from burnout. The isolation of the workplace, the separation from home, the devaluation of one's work and the confrontation with clients' illnesses and deaths present great emotional burdens. Further, the majority of the workforce are women; therefore, maternity protection is a major concern, as is protection from violence. Domestic care workers are especially vulnerable to sexual harassment and violence in the context of the private household as the workplace, along with the physical proximity to their clients. Again, migration is a risk factor when workers are dependent on work permits and cannot simply decide to quit their jobs or change employers.

Findings:

Regarding **board and lodging**, § 35 NAV Basel sets **standards**, which **include a lockable single room**. The room must meet hygiene requirements and be well-lit by daylight and artificial light, well-heated, ventilated and adequately furnished, including a bed, a table, a chair and a wardrobe or a chest of drawers. It must also be spacious enough so that the agreed periods of standby and free time can be spent in it. Further, unrestricted access to shared or private sanitary facilities and shared use of laundry facilities must be provided, along with unlimited and **free internet access**, where the employee's privacy is protected.

In Italy, Art 36 of the Collective Agreement sets **standards for accommodation and food**, but as they are less precise, they might open a window for misconduct. The Collective Agreement only states that a healthy and sufficient diet and suitable accommodation that safeguards the dignity and privacy of the employee must be granted.

Regarding the **autonomy to leave the house**, in Switzerland, § 26 NAV Basel states that employees may leave the house during free time and days off. It specifies that, even if employees spend their breaks and days off in the house, they are not available to the person to be cared for, and the family must ensure that the **required care is arranged otherwise**. As mentioned above, the Swiss regulation also allows for 'on-call duty', which means that employees are allowed to be away from the household during standby time but can be reached by telephone if necessary and must be at the place of work within a certain time frame.

Also Art 9 of the Spanish Royal Decree 1620/2011 states that there is **no obligation to remain in the house** outside work and standby time.

Regarding maternity protection, Art 31 NAV Basel entitles workers to 14 weeks of **maternity leave**.

Art 25 of the Collective Agreement stipulates that the Italian regulation on the protection of working mothers applies.

And regarding occupational risks; the **Spanish Occupational Risk Prevention Law** no longer excludes domestic workers from 2022 onwards. It is expressly recognised that workers have a right to effective protection regarding occupational health and safety, especially within the scope of preventing violence against women.

Conclusion:

→ **Precise standards for board and lodging** support a care workers' autonomy and well-being.

→ Domestic care workers must be included in regulations regarding **health and safety** at the workplace, also on the EU level. Provisions safeguarding dignity, health and security at work should be understood as having the broadest possible scope and include irregular migrants.

→ As most domestic workers are women, **maternity protection and protection from sexual harassment** are of particular importance. Regarding protection from violence, it is crucial to grant access to support networks independent of nationality, primary residence, migration status and formal or personal relationship with the offender.

→ An obligation to **remain in the household outside working times clearly violates** a care workers' autonomy. During free time and days off, employees are free to leave the house and must not be available to the person to be cared for, while the employer must ensure that the **required care is arranged otherwise**.

→ Work permits should not be tied to a named employer but should allow the workers to change workplaces if they wish to do so.

Promising Practice:

§ 35 NAV Basel sets standards for board and lodging, including a spacious, well-lit, furnished, heated, lockable single room. Further, unrestricted access to sanitary and laundry facilities and unlimited free internet access must be granted.

7. Implementation and Workplace Control

Problem:

Challenges regarding the implementation of the law prevail in all examined countries. Gaps between law and practice hinder the safeguarding of domestic care workers' rights. Provisions limiting the powers of labour inspection authorities to enter private households are the norm in most legal systems, and they are premised on the protection of privacy. It is important to think of innovative ways to inspect domestic workers' working conditions that respect the household's privacy but still ensure that working conditions can be subjected to regulatory control. This is particularly important with regard to vulnerable groups, such as victims of human trafficking.

Findings:

In Spain, labour inspectors must **obtain prior consent or a court order** to monitor the employer's private household.²¹ This prevents spontaneous inspections but presents a compromise between workplace control and privacy protection, which also complies with the ILO Convention 189.²² In 2021, the Spanish labour ministry sent out around 45,000 **letters to households** reminding them to properly register their employees in the social security system, make the correct contributions and pay them at least the minimum wage – and that failure to comply is an administrative offense. A precondition for such an initiative is the registration of home care workers; in Spain, household employees are required to have a social security number, and the employer has to **register them online**.

The Swiss Federal Tribunal clarified that the exemption from workplace inspections for private households does not apply if the care worker is employed by a staff leasing company.²³ This means **standard labour law, including workplace inspection, is applicable to tripartite relationships**, as it is possible to inspect the employer without entering the household. For example, **working time can be recorded digitally**, using web-based time recording systems.²⁴ According to § 25 NAV Basel, private household employers are also obliged to record working time, and the recordings should be revised with the employees on a weekly basis.

Great Care's founding organisation, the Migrant Rights Centre Ireland (MRCI), identified the lack of labour inspection as one of the main vectors of domestic workers' vulnerability and implemented a pilot project in cooperation with the national labour inspectorate. At its core are **alternative inspections** on a voluntary basis. The inspection offices contacted household employers and asked to **revise written documents**, such as contracts and pay slips. They offered to hold the inspection of said documents **on an alternative site** if the employers were reluctant to admit the inspectors into their homes. Most employers consented to the revisions in the household. Further, **third-party interviews**, for example, with neighbours, were introduced as measures to obtain information on working conditions without visiting the private household.

²¹ Art 12 of the Royal Decree 1620/2011 stipulates that the implementation should be monitored by the Labour and Social Security Inspectorate according to the relevant procedures, that is to Law 42/1997 on Labour Inspection.

²² Blackett, *Everyday Transgressions* 2019, 25-26.

²³ Judgement of the Swiss Federal Tribunal (Bundesgericht, BGer) 22.12.2021, 2C.470.2020.

²⁴ Pärli, *Urteilsbesprechung*, 105-106.

Conclusion:

-> **Innovative approaches** to labour inspection can help to find a **balance between privacy and workplace protection**. The inspection of the relevant documents, for example, working time records and contracts, but also interviews with the workers, employers and third persons, such as neighbours or family members, can take place without entering the household.

-> On-site inspections at the private household with **prior consent or a court order** also present a compromise between workplace control and privacy protection, which also complies with the ILO Convention 189.

-> In the case of **third-party employment**, an exemption from labour inspection is not justifiable, as the employer is not the private household and can be inspected at their business site regarding the observance of standard employer obligations, which include taxation and social security contributions and also cover sector-specific aspects, such as recruitment and the matching of clients and care workers.

Promising Practice:

The Irish pilot project implemented alternative methods of workplace inspection to obtain information on working conditions without visiting the private household. These included the revision of written documents, such as contracts and pay slips and interviews with employers and employees in an alternative setting.

Summary

There are various ways to structure domestic care work as an employment relationship. In this study, a selection of such possibilities was examined in more detail, including direct household employment and employment with service providers. The main difference between the examined approaches concerns the parties to the labour contract – in other words, the question whether the worker is employed directly in the household or a third party is the employer. In the case of employment with a third party, different varieties are again possible: The employer can be public or private, non-profit or for-profit and/or a co-operative. In all countries examined, different models co-exist, leading to different levels of protection within the respective regulatory regimes. Migration policies shape migrants' access to formal employment and create vulnerabilities, for example, if permits are tied to a named employer or no right to change sectors or employers is granted. While none of the case studies examined presents a fail-free system, several promising practices have been identified in each country. The inclusion of the two co-ops from Ireland and the UK allowed for further insights into how long-term care can be organised in a way that is oriented towards both client and worker needs.

Organisational Structure of Employment: Third Party Versus Private Household Employment

The greatest challenges for the regulation of domestic care work as employment arise in constellations where the worker is employed directly by the household. The costs and administrative burdens for the employers as well as the exemption of household employment from standard labour law in most legal systems are major concerns. The study presents a number of measures to address individual challenges in the context of direct household employment, but the general finding is that an employment model with a third-party employer is preferable for both workers and clients. Non-profit and/or public service providers are preferable to private agencies, as any financial surplus is reinvested into the organisation, leading to a better quality of care.

While intrinsic problems of live-in arrangements arise independently from the question of the employer's identity and call for certain additional regulations, they must be distinguished from problems arising from certain employment relationships. For example, the sudden dismissal on the grounds of the care receiver's death only occurs if the employment is direct; in the case of employment with a third-party organization, the person would simply be reassigned. The emotional burden resulting from caring for dying people of course remains either way and points to the need for rest periods and also possibly for supervision and continuing education.

Private households further struggle with managing their obligations as employers. Amongst the measures to reduce the administrative burden for household employers, the use of digital tools as well as the services of trade unions and employer organisations were found to be promising practices. Digital tools can be put to use to support households in the administration, for example, for calculating payments or sending automated notifications. Digital platforms can be helpful for searching, matching and recruiting care workers, but easy and open access is a prerequisite for their use. Especially promising is Equal Care's worker- and care-receiver-owned platform, as it does not require an intermediary and allows both clients and workers to actively participate in the recruitment process.

Another approach is to attribute the role of the employer to a third party that sends care workers on assignments to private households. This not only decreases the administrative work for the families but also has advantages for care workers; legal exemptions for household employees do not apply, and workplace inspection can function more easily. Another practice that has been found promising in reducing the administrative burden and supporting formalisation are social vouchers. Families buy or receive vouchers from public providers that employ care workers and assign these to private households for a certain amount of time.

A significant advantage of structuring the care arrangement as an employment is that it allows for trade union representation. Employers' organisations support private households in meeting their obligations and serve as counterparts to domestic care workers' organisations when it comes to collective bargaining. The existence of employers' as well as workers' organisations is an important precondition for social dialogue. Italy is an example of a functioning social dialogue, including domestic care workers and private household employers; a collective bargaining agreement is in place, including a minimum wage for domestic workers. Yet, the sectoral minimum wage is set by a commission and not through collective negotiation, limiting wage increases. In Switzerland, the relevant trade unions have been demanding improvements in working conditions for years; the aforementioned ruling by the Federal Tribunal on the application of standard labour law to employment relationships with a third-party provider also resulted from an association complaint by the Swiss Association of Public Service Personnel (VPOD).

Intrinsic Challenges of Live-In Arrangements: Remuneration and Working Time

In Spain, work is included in the national minimum wage regulations. Wages are one area where the 'work like any other' approach is clearly preferable. Domestic care workers must be entitled to overtime pay, night and weekend work benefits, etc., just like any other workers. The prevalence of payment in kind, which should be strictly limited and must reflect the actual set-up that again must meet certain standards, remains specific to the sector.

Another core finding concerns the difficulties of working time regulation and the distinction between working, standby and resting periods. Standby time is a typical feature of live-in care work and, therefore, one of the most important points requiring regulation. Requirements to remain in the household during standby time must be reviewed with great scrutiny, as they limit the autonomy of the employee. The requirement to be available via telephone and to be at the household in a set amount of time serves as an alternative. While the client's needs are indeed sometimes difficult to fit into a standard working schedule, the use of the term '24-hour care' with its implication of around-the-clock availability sets wrong expectations. Good care requires well-rested and well-paid care workers.

Live-in arrangements tend to limit care workers autonomy, as they make it more difficult for workers to have undisturbed resting periods and a private life. Many of the experts and stakeholders consulted advise against live-in arrangements altogether. Home care under the acceptance of a maximum of working hours makes care arrangements with only one care worker per household difficult. Digital tools might also be put to use; in many cases, standby time could be spent outside the household, with the worker being called in only in the case of need. Alternatives can be shift work or job sharing, where at least two care workers take care of one person. In cases where the care need is especially high, more than one care worker must be employed. In cases where a client depends on around-the-clock attention for their health, a home care arrangement cannot be expected to respond to every need, as it is not covered by the qualification or legal obligation of the typical domestic care worker and by far not reflected in typical wages.

Co-operatives

Employment within a co-operative is an attractive model for establishing new co-productive arrange-

ments between care recipients and care workers but also for giving workers more autonomy and opportunities for self-management. It allows for their participation in organisational decision-making and offers sustainable career options and opportunities for career advancement for care workers.

In addition, the examined co-ops operate according to non-profit principles, which is important for the care sector. As the commodification of the care sector in many European countries progresses, models are needed that protect co-ops from divestment, for example, from being bought up by profit-oriented companies, and enhance **their integration into the public infrastructure. The Equal Care Co-op in the UK, for example, has an accreditation to receive public contracts. This helps to prevent a dualization of care systems within one country and ensures sufficient income for the co-operative.**

Appendix

Equal Care Co-op, UK

The Equal Care Co-op is a registered, multi-stakeholder co-operative in the North of England. It is a digital care and support platform owned by the givers and receivers of care. The co-op was founded in 2018 and, so far, is organised mainly on the local level, working towards a larger scale. The organisational structure is established in the registered rules on the basis of the Co-operative and Community Benefit Societies Act 2014. In addition to this legal document, the co-op's rules and bylaws can be found online at <https://work.equalcare.coop>, and much effort is put into making them accessible and easy to understand. The co-op's business is managed by a board of directors, which consists of members and is elected by the members during the general meeting; terms of office are limited.

The co-op consists of four member groups: supported members, worker members, advocates and investor members. Members are part owners. Supported members are care receivers supported by the services of the co-operative who have been admitted into membership. A worker member is a person who is an employee or provides a specified number of hours of paid or voluntary services via the co-operative and has been admitted into membership after a probation period of six months. Accordingly, worker members can either be self-employed or employed, with a larger number of self-employed worker members at the moment. The co-op has a standard employment contract, and self-employed care workers sign a 'promise', establishing the legal relationship with the co-op, including possible membership.

The governance structure is democratic, with one vote per member (except limited participation rights for investor members), allowing workers to determine their own working conditions and their work schedule over longer periods of time; for example, workers could be able to agree on an absence of up to three months. The co-op also offers training opportunities and career development options within the organisation.

Great Care Co-op, Ireland

Great Care is Ireland's first carer-run home care provider. The founding members met through the Migrant Rights Centre Ireland (MRCI). The MRCI had already successfully run a campaign for the ratification of the ILO Convention 189 and a pilot project on workplace inspection in private households. After many years of grassroots campaigning for migrant women's labour rights in the care sector in Ireland, they founded a worker-owned business in 2017.

According to their self-description, a co-operative approach seemed to be a 'natural solution' to effectively fight low wages, workplace exploitation and discrimination. In a two-year research and discussion process, including market research, ten founding worker members developed the framework with the support of a community organiser.

According to background interviews, the Irish legal framework for co-operatives did not meet their needs due to the high administrative burdens. Instead, they chose a legal framework used by non-profits and set up an additional constitution with co-operative principles. Great Care is a democratically run, not-for-profit organisation that focuses on meeting its members' needs while serving the purpose of providing 'great jobs and great care'. The Great Care Co-op employs all its care workers; after a six-month probation period, they can become members of the co-op.

Case Study Portraits

Italy

The first law on domestic labour in Italy dates back to 1958 and is still in force today (Law 339/1958 Tutela del rapporto di lavoro domestico). This law compensated for the absence of a national collective agreement due to a ban on collective bargaining specifically targeting domestic work. The right to collective bargaining was gained after the Constitutional Court lifted the ban in 1969, and the first collective agreement came into force in 1974.

Since then, the sector has been periodically subjected to collective bargaining; the most recent National Collective Labour Agreement was signed in 2020.²⁵ Parties to the agreement are Fidaldo (Italian Federation of Employers of Domestic Workers) and Domina (National Employers' Association) on the employers' side and Filcams-CGIL (Italian Federation Of Workers, Commerce, Tourism And Services), Fisascat-Cisl (Italian Federation of Trade Unions for Commercial, Related and Tourism Services), UILTuCS (Italian Union of Tourism Trade and Services Workers) and Federcolf (Italian Trade Union Federation of Caregivers) on the workers' side. According to Art 1, the contract applies to family caregivers, domestic helpers, caregivers, babysitters and other professional profiles categorised in the National Collective Labour Agreement, including those of non-Italian nationality or stateless persons, however remunerated. Based on the collective agreement, domestic care workers are granted basic labour rights, including working and rest times, paid holidays and sectoral minimum wages. Further, Italy was the first European country to ratify the ILO Convention 189. Still, the sector is characterised by high levels of informality and legal non-compliance. While most homecare workers are Italian citizens, live-in care workers tend to be migrants, and many non-EU citizens are excluded from the collective agreement's framework due to a lack of regularisation of their residence.²⁶ Though immigration policies, in general, have been restrictive, they have, through quotas and amnesties, supported the entry of domestic workers. Non-EU citizens are entitled to a residence and work permit as domestic workers only if hired with a permanent contract for at least 26 hours per week. In practice, many migrant workers have contracts for exactly 26 hours and do longer shifts informally.

Spain

Domestic work for private households ('servicio del hogar familiar') is one of the employment relationships that Art 2 of the Spanish Workers' Statute considers to be 'special' and, thus, subjects to a separate regulatory regime. Since 1985, royal decrees have regulated the special employment relationship of domestic workers. Before 2011, labour law rights in the domestic work sector were significantly more restricted than in other sectors. Spanish law distinguishes between care and non-care activities, with live-in care workers falling into the non-care category. While recognised care jobs are identified and defined under the Dependency Act, Law 39/2006 (LAPAD), so-called non-care activities, including domestic care workers, fall under the jurisdiction of the Royal Decree 1620/2011. The prior Royal Decree 1424/1985 regulated paid domestic work in private households for 26 years, and the reform responded to long-standing claims to improve the conditions and end discriminatory treatment.

Since 2011, domestic workers are included in the national minimum wage, and working time standards comparable to those in other sectors are established. The reform paved the way for the ratification of the ILO Convention 189 and enhanced domestic workers' labour and social security rights. Generally, the

²⁵ Contratto collettivo nazionale di lavoro sulla disciplina del rapporto di lavoro domestico (CCNL) 8.9.2020.

²⁶ Rogalewski/Florek, The future of live-in care work in Europe 2020, 8.

Spanish regulation can be characterised as leaning towards the ‘work like any other’ approach, treating domestic care work much like any other form of employment. However, still, numerous exceptions prevail. The reform aimed to progressively equalise employment rights and social protections of domestic workers and those of other sectors and to end informality by facilitating affiliation to social security. The new Royal Decree 1620/2011 introduced improvements, such as the right to receive written information on the conditions of work, the regulation of wages, provisions on working time and provisions strengthening domestic workers’ autonomy. The legislation was just recently reformed again through Royal Decree 1620/2022. Now, protection from and compensation for unfair dismissal are granted on the same level as for other workers. Further, the Spanish Occupational Risk Prevention Law of 1995 no longer excludes domestic workers. It now recognises that domestic workers have a right to effective protection regarding occupational health and safety, especially within the scope of preventing violence against women. Finally, their exclusion from unemployment benefits has been found discriminatory by the Court of Justice of the European Union (CJEU) in 2022.²⁷

Switzerland

There are two common employment models in domestic care work in Switzerland: People are hired directly by a family or through a private staff leasing company (Spitex). Women from Eastern Europe represent a big share of the domestic care workers in Switzerland. Direct employment with private households is exempted from standard labour law (Art 2 para 1 lit g ArG). However, regional and federal standard employment contracts (Normalarbeitsverträge, NAV) apply. In this study, the regional NAV for Basel was taken as an example in addition to the federal NAV. Based on the federal NAV, employees in the housekeeping sector are entitled to a minimum wage (see Art 5 of the Ordinance of 20 October 2010 on the Standard Employment Contract for Employees in the Housekeeping Sector, NAV Hauswirtschaft Bund, SR 221.215.329.4). In 2021, a Federal Tribunal ruling clarified that the exemption from standard labour law for private households does not apply if the care worker is employed with a third party, such as a staff leasing company.²⁸ This means standard labour law, including workplace inspection, is applicable in such cases. The applicability of standard labour law most likely will mean the end of 24-hour care by a single worker, as this is not compatible with standard working time regulations. Yet, as the exemption remains for direct household employment, it is likely that households will switch to such constellations. The Swiss ruling was the result of an association’s appeal (Art 58 ArG); trade unions and employers’ organisations have the right to request a declaratory ruling on the applicability of the Labour Code. The ruling demonstrates the necessity and usefulness of such an appeal, especially for precarious workers who are less likely to go to trial individually.

²⁷ CJEU C-389/20, 24.2.2022, TGSS (Chômage des employés de maison) ECLI:EU:C:2022:120.

²⁸ Judgement of the Swiss Federal Tribunal (Bundesgericht, BGer) 22.12.2021, 2C.470.2020.

Consulted Organisations

Grupo de trabajadoras del hogar – SOS Racismo Gipuzkoa (SOS Racismo Domestic Workers' Group

Gipuzkoa, Basque Country), Spain

Fisascat-Cisl (Italian Federation of Trade Unions for Commercial, Related and Tourism services), Italy

Domina (National Employers' Association), Italy

Equal Care Co-op, UK

Great Care Co-op, Ireland

Hekate – Conscious Ageing Foundation, Netherlands

Diesis Network Société coopérative agréée comme Entreprise Sociale (European network specialised in supporting social and solidarity economy and social enterprises), Belgium

UNICARE – Care Union at Uni Europa, regional organisation of Uni Global Union

Schweizerischer Verband des Personals öffentlicher Dienste, VPOD (Swiss Union of Public Service Personnel), Switzerland

Platform for International Cooperation on Undocumented Migrants (PICUM) Stakeholder Group on Domestic and Care Work, Belgium

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