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1. Introduction

Live-in care work intersects two different perspectives of analysis. First, it constitutes a form of domestic work, which is characterised by a widespread tendency of legal systems to reduce the standards of protection compared to other subordinate employees, but, on the other hand, is finding new dignity through supranational sources, such as the ILO Convention No. 189. Second, it belongs to the care sector, a sector “in the making”, also through the many significant policy initiatives of the European Union, and that is grounded on the relatively recent theoretical category of “care”, which represents a characteristic feature of a number of jobs that are aimed at assisting the person, but cannot be classified as a form of health assistance. This contribution focuses on paid live-in care workers, who deliver care services within an employment relationship, thus it does not address the condition of unpaid care givers, nor that of care workers in the informal economy.

Among domestic care workers, *live-in* carers are identified as those who reside in the household they work for. The presence of live-in carers may remarkably differ from country to country, since a number of variable factors influence its spread, such as the structure and strength of the welfare system, the presence of temporary agencies, the level of platformisation of care work (Poblete et al. forthcoming), as well as the workers availability in the territory concerned, not to forget cultural aspects (Burau 2007, 123; Daly 2025, 12).

Nonetheless, live-in carers all over the world share a lowering of employment protections in comparison to other dependent workers of the same country, which prompted the International Labour Conference to intervene with a Convention and a Recommendation (Domestic Worker Recommendation 2011 No. 201).

The relevance of care work in modern societies is growing. More specifically, “home care is high on the political agenda across many countries” (Burau 2007, 122) and a specific attention is given to the needs of the older population. “Care workers close the circle between unpaid care provision and paid work” (Addati et al. 2018, 167), as they often allow members of the family (mostly women) to reduce or evade providing unpaid care for family members, giving them the possibility to enter the labour market.

The present paper addresses some relevant profiles of the legal framework of the above-mentioned workers and is mostly based on the results of the research project *CARE4CARE - We Care for Those Who Care*¹. The project concerns the regulation of employment conditions of

¹ The project has been financed by the European Union through the program Horizon Europe Research and Innovation (GA n. 101094603).

care workers in six partner countries: Italy, France, Germany, Poland, Sweden and Spain. It addresses “care workers in the public and private care sector, and in formal and informal economies, who perform paid work and provide personal and/or health assistance to elderly persons, sick persons, or persons with disabilities, particularly those with at most a Bachelor’s degree” (Ronnmar 2024, 3). As part of the research, the Consortium has focused also on domestic live-in care workers, emphasising peculiarities and criticalities of the relevant regulation in the legal systems concerned and the discrimination they suffer, specifically on the grounds of gender and migration status.

The analysis that follows focuses on a *species* of domestic workers, *i.e.* live-in care workers, and it draws attention to their peculiarities from a regulatory perspective (therefore criticalities related to the informal sector are left out), mostly by reflecting on some of the main findings of the CARE4CARE project. First, it introduces the global legislative tendency towards the regulation of domestic, and more specifically live-in, care workers with a focus on the ILO Convention No. 189/2011, understood as an important leverage for improvement. Second, it introduces the notion of “care”, by identifying the main international and EU sources that address it. Third, the analysis, with the ILO Convention framework and the principle of equal treatment in mind, turns national, and selected profiles of the legal framework of the project’s partner countries are addressed, with the result of showing the heterogeneity of the regulatory approaches and emphasising best and worst practices. In particular, the focus is on four core institutions: collective bargaining; health and safety; working time; and dismissal. Last, the most relevant policy proposals advanced by the research project for promoting improvement of labour standards for the sector are illustrated.

2. Exceptionality of domestic work regulation and the ILO remedies

Domestic work regulation around the world has in common a strongly derogatory approach compared to the rules that ordinarily apply to subordinate workers. The poor working conditions of domestic workers worldwide “are the result of a set of labour market, migration and care policies (or the lack thereof)” (Addati et al. 2018, 192). The legal tendency, in many national systems is to exclude domestic workers from a varied number of norms intended to regulate employment, creating a condition that has been emphatically called “legislative precariousness” (Mantouvalou 2012a, 133). This approach spans from countries where domestic workers suffer the exclusion from specific standards of protection to countries where the latter are not covered at all by domestic legislation, a situation that is likely to constitute the cause of “abuses of basic labour and other human rights”².

As reported by the Committee of Experts on the Application of Conventions and Recommendations (CEACR), in some countries, the threat to the dignity of domestic workers is severe and can include denial of trade union freedom, child labour and/or labour exploitation, and specific vulnerabilities for women and migrant workers³ (Pavlou 2021).

² ILO Governing Body, GB 301/2, 301st Session, 2008, 13, 14.

³ ILO Governing Body, GB 301/2, 301st Session, 2008, 14; ILO: ILC, 82nd Session, Report III (Part 4A), 1995; ILO: Eradication of forced labour, Introduction, Report III, Part 1B, ILC, 96th Session (Geneva, June 2007).

The case-law of the European Court of Human Rights has demonstrated that not even the so-called developed countries are immune from serious violations of human rights in the domain of domestic work. The first significant judgment, *Siliadin v France*⁴, was released in 2005 and it had the merit to shed a light over a risk that modern societies have only apparently overcome and “illustrate the cruelty of the social problem” (Mantouvalou 2012b, n.p.; Mantouvalou 2006). Indeed, starting from *Siliadin* the Strasbourg Court has reputedly acknowledged the violation of art. 4 of the European Convention of Human Rights for forced labour and/or servitude in the domestic environment⁵.

But even in legal systems where violations of fundamental rights are not as severe, domestic workers are often subject to less favourable regulations compared to the ordinary rules governing subordinate employment. Moreover, as reported by the Governing Body of the International Labour Office in 2008, not all ILO Conventions in force at the time would fully cover domestic workers. Just to mention the most evident cases: the Hours of Work (Commerce and Offices) Convention, 1930 (No. 30) explicitly excludes from its scope of application workers “employed in agriculture, maritime or inland navigation, fisheries and *domestic service*”; while the Protection of Wages Convention, 1949 (No. 95) and the Maternity Protection Convention, 2000 (No. 183) allow ratifying States to exclude certain categories of workers. Convention 95 openly mentions “those employed in domestic services or work similar thereto” (Art. 2), Convention 183 generally refers to “limited categories of workers”; nevertheless, the effect is the same, as the CEACR has noted a resistance of States to fully apply the provisions of the maternity protection Convention to domestic workers⁶.

The specific problems faced by domestic workers, their peculiar vulnerability or – even – their invisibility (Kocher 2024, 7; Mantouvalou 2012c), together with an international (and often national) legislative framework that oust them from the general standards of protection have driven the ILC to intervene with a binding instrument, ILO Convention No. 189/2011, and a set of guidelines to promote a meaningful application of the international standards, that is the Domestic Worker Recommendation 2011 No. 201 (Blackett 2019; Riefoli 2018, 917).

ILO Convention 189 entered into force in 2013. At present it has been ratified by 40 countries. Taking into account the geographical scope of the CARE4CARE project, it is worth to underline that France and Poland are among the Member States that have not ratified the Convention, yet.

Live-in carers are covered by ILO Convention 189, since the latter applies to “all domestic workers” (art. 2.1). Domestic workers are primarily defined by taking into account the place of work or the beneficiary, rather than the activities performed. Indeed, “domestic work” is a “work performed *in or for a household or households*”(art. 1.a), italics added). The Convention only covers those workers who perform their tasks “within an employment relationship” (art. 1.b)). However, it does not further specify with whom the employment relationship must exist; it follows that, while self-employed persons and independent contractors are undisputedly excluded from the scope of application, the international tool does cover also domestic workers contracted by agencies or enterprises of various types to be “sent” to perform their tasks in the context of a

⁴ *Siliadin v France*, App No. 73316/01, Judgment of 26 July 2005.

⁵ *C.N. and V. v. France*, App No 67724/09, Judgment of 11 October 2012; *C.N. v. the United Kingdom*, App No 4239/08, Judgment of 13 November 2012; *I.C. v. the Republic of Moldova*, App No 36436/22; 27 February 2025.

⁶ ILO Governing Body, GB 301/2, 301st Session, 2008, 13, 14.

household (Riefoli 2018, 917, 919), for whom a specific regulation is provided by article 15 of the Convention. Last, the specification that persons who perform occasional or sporadic domestic work are not considered domestic workers hardly concerns our focus, provided that live-in carers are engaged way beyond what can be considered “occasional” work.

With this binding document, the ILC acknowledges and accepts the widespread legislative policy that fundamentally differentiates between domestic workers and other employees, to the point that, as seen above, it even observes this distinction within ILO sources. At the same time, although it continues to tolerate certain debatable exclusions, such as that of “limited categories of workers in respect of which special problems of a substantial nature arise” (art. 2.2.b), it seeks to remedy this situation, by consistently approaching domestic work as a sector requiring its own specific regulatory framework. Accordingly, the rationale underlying the ILO Convention aims to overcome the sharp disparity in protections and to promote equal treatment between domestic workers and other employees (Kocher 2024, 16). This objective is pursued along two main lines.

First, it provides for wide-ranging guarantees that go from those aimed at preventing the most serious violations of human rights, to norms pertaining to rather ordinary regulation of the employment contract. Belonging to the first type, *inter alia*: the obligation “to ensure the effective promotion and protection of the human rights of all domestic worker”, including trade union freedom and the right to collective bargaining (art. 3); measures aimed to discourage child labour (art. 4) and to provide “effective protection against all forms of abuse, harassment and violence” (art. 5)⁷; the duty to prevent behaviours that would favour a condition comparable to a domestic servant (Art. 9); although *Siliadin* has had a decisive role in the adoption of Convention 189, it was decided not to include any specific norm against servitude or forced labour, since domestic workers were already covered by Conventions 29 and 105 (Borelli 2021, 283). Not by chance, most of these norms refer to other ILO Conventions that already address the specific violations for workers in general (Mantouvalou 2012c, 71-75). Other norms provide for obligations regarding the content of the employment contract, with an admirable level of detail – considering it is an international source – for instance article 7 on the right of domestic workers to be informed of their terms and conditions of employment, as well as article 8 that addressed specific needs of migrant domestic workers.

Second, article 10 (working time, expressly including: normal hours of work, overtime compensation, periods of daily and weekly rest and paid annual leave), article 11 (right to minimum wage), article 13 (right to occupational health and safety) and article 14 (social security) lay down the obligation to guarantee equal treatment, compared to other subordinate employees of the same legal system, with regard to specific institutions that constitute core matters of the employment relationship. These norms are rather specific and clear, to the point that a minority of them, in abstract, could be directly applicable, let us think of the weekly rest obligation set at least 24 consecutive hours (art. 10.b)). Also noteworthy is the prescription to consult social partners to guarantee equal standards, even progressively. Indeed, it is reasonable to approach the equalization of standards for domestic employees gradually, provided that, in many countries, it represents a regulatory revolution, that intend to overcome a structural “sectoral disadvantage” (Mantouvalou 2012c, 76).

⁷ Although it is increasingly common to recognise harassment and violence as health and safety risks, see Kocher 2024; European Commission 2022, 13.

The centrality of the principle of equal treatment is expressed in general terms in article 6 that provides for a duty of member states to “ensure that domestic workers, like workers generally, enjoy fair terms of employment as well as decent working conditions”. The same article is specifically relevant for live-in carers: it expands the protection over the principle of equal treatment, as it includes a norm that addresses the peculiar needs of the latter, by providing that workers residing in the household also have the right to “decent *living* conditions” and to the “respect of their privacy”.

This concise analysis of the Convention reveals that *decent work* (Tomei Belser 2011) for live-in carers must, as a preliminary condition, qualify as subordinate employment, failing which the Convention’s protections do not apply. Moreover, it must ensure the principle of equal treatment, subject only to such adjustments that are strictly necessary due to the specific nature of the workplace, but still acknowledging that we are referring to a “work like no other” (Mantouvalou 2012c; Borelli 2021, 284). Furthermore, as regards the target of this contribution, it is particularly relevant that decent work for live-in carers entails also obligations to guarantee a dignified standard of living, including respect for the worker’s right to private life.

3. Unpacking a further layer of complexity: *care* (and *live-in care*)

For the purposes of this paper, the notion of care is introduced solely looking at the applicable international and European legal sources, while the remarkable analyses and theoretical debates around this sensitive concept in the employment context, which is increasingly gaining the scholarship attention, is left aside (Vallauri forthcoming; Herring 2013; Lynch 2009; Fineman 2004).

A massive report on care work published by the ILO in 2018, in one of its key messages, emphatically defines care workers as those who “tend to the most basic human needs and sustain the well-being of those who are in a relatively dependent position”, where the characteristic feature of the work of care workers, is that it “usually involves a degree of emotional involvement with those being cared for, which is difficult to measure” (Addati et al. 2018, 165 and 171).

Although it can be argued that also housekeepers should be traced back to the care category (Addati et al. 2018, 168), the CARE4CARE Project has adopted a restrictive and more human-oriented definition, thus the notion includes only jobs involving tasks that entail a personal relationship. In fact, also the ILC Resolution of 2024, defines “direct care work” as “personal care activities that are *relational*”⁸. This approach is aligned with the European Care Strategy (from now on ECS, EC 2022), adopted by the European Commission on 7 September 2022 and complemented with a Recommendation on access to affordable high-quality long-term care (LTC)⁹ and a Recommendation on early childhood education¹⁰, which, however, falls outside the scope of this analysis.

⁸ ILC.112/resolution V, “Resolution concerning decent work and the care economy (14 June 2024).

⁹ COUNCIL RECOMMENDATION of 8 December 2022 on access to affordable high-quality long-term care (2022/C 476/01).

¹⁰ COUNCIL RECOMMENDATION of 8 December 2022 on early childhood education and care: the Barcelona targets for 2030 (2022/C 484/01)

Although the European Commission lacks competence in the specific area of care and, therefore, it cannot adopt legislative texts generally pertaining to the sector (Mazzetti 2025), the European Care Strategy policy package could find solid guiding principles in the European Social Pillar. As far as concern LTC, Principle 18 applies immediately and it recognises that “Everyone has the right to affordable long-term care services of good quality, in particular home-care and community-based services”.

The European Commission was strongly motivated to finally adopt the Strategy by the Covid-19 pandemic that demonstrated the great value of care workers, too often invisible, both in the legislative and in the public discourse. As it has been observed, the ECS follows a “holistic approach”, that holds together the interests of care providers and care recipients, by including all categories of care. Thus, it gives substance to the ILC argument that “decent work for care workers contributes to quality care”¹¹. The strategy promotes availability, accessibility, quality and affordability of care, by highlighting: the need to provide universal access to care, also in remote areas; the essential leading role of public care services; the value of the opportunities created by technology, that, however, “should not replace human interaction” (EC 2022, 10); last – and foremost from our perspective – the necessity to improve working conditions, also with the aim to make the sector more attractive and overcome the significant labour shortages (Caracciolo di Torelli 2023, 60-62).

As regards the relationship with the international source, the ECS goes beyond the initiative undertaken with Council Decision 2014/51/EU, that authorised Member States to ratify the Convention 189 and that already “implicitly recognised the relevance of specific measures in the area of live-in work” (Kocher 2024, 19), by calling for the EU Member States to ratify and implement ILO Convention 189/2011 (EC 2022, 14). This represents a clear stance in favour of regulating domestic care work in a way that tends toward the harmonization of sector-specific rules with those governing subordinate employment in general.

The first legislative initiative of the EU comprehensive strategy on care is the Recommendation on LTC (Daly 2025, 9). Being a Recommendation, it does not have binding legal value, but it carries political weight, and it provides detailed policy guidelines to the Member States. In this case, the policy guidelines include initiatives aimed to make the profession more attractive, that translates in an improvement of working conditions, as well as workers’ rights of a wider nature, such as the right to education and training.

Although the notion of care work adopted here is applicable to all those who perform activities to meet the physical, psychological and emotional needs of both adults and children not completely autonomous, the growing political attention towards LTC is due to the evidence that the assistance to the elderlies, especially if with physical or mental constraints, is becoming an essential task in contemporary societies, that allow the care receivers to carry on with their lives and, simultaneously, the well-functioning of the internal market (Caracciolo di Torella 2023, 60). Already in 2007, it was observed that “older people constitute by far the largest user group of home care, a figure that will increase significantly in the light of ageing societies” (Burau et al. 2007, 2). More recently, the projection was confirmed by the ILO Report of care work, where it is argued that “personal care workers [...] are particularly prevalent in long-term care” and most of them “work in home-based care, where benefits, wages and working conditions tend to be

¹¹ ILC.112/resolution V, “Resolution concerning decent work and the care economy (14 June 2024).

poorer in comparison to institutional care” (Addati et al. 2018, 180). Often, this kind of care recipients require support on a rather permanent basis, which is the reason why, in this domain, home carers turn into *live-in* carers. Their employment relationship is marked by a significant integration of the worker into family life and an almost complete blending of working and private life, as the private sphere is, albeit partially, shared with the person being cared for and, if applicable, his/her family. In that respect, it is remarkable that also the European Commission acknowledges a substantial difference between domestic workers and live-in carers, that are both considered particularly vulnerable groups of care workers, but, still, are recalled as a separate type of workers (EC 2022, 3, 10, 13, 14).

4. Pills on the regulation of live-in carers in the CARE4CARE project’s countries

Due to space constraints, this section reflects only on some of the profiles addressed in the reports published during the CARE4CARE research project. The aim of this section is to provide an introductory picture of the different possible ways of regulating domestic and live-in care work, by emphasising best national practices and most critical experiences.

All six legal systems studied in the research project provide for a different treatment of domestic care workers contracted by a domestic employer, compared to other employees (not all of them strictly focus on the specificities of live-in care). Nonetheless, the extent of such derogations differs, as well as the legislative choices promoted to comply with ILO Convention 189. The latter, with its rationale based on the principle of equality, constitutes the analytical guidance for the national legislative choices.

Spain and Sweden have modified the regulation of domestic workers to align it with the ILO Convention. In Sweden, where an elder care policy “based on the principle of ageing in place, encouraging elderly to remain in their homes for as long as possible with various forms of support” has been adopted and the demand for household services is increasing, the Government amended the (1970:943) Act on Working Time etc. in Domestic Work¹² to prepare the Swedish ratification of the ILO Domestic Workers Convention No 189 and improve the regulation of this sector to comply with the Convention (Ronnmar 2024, 7, 8). To prepare the ratification of the ILO Convention 189 that occurred in 2023, the Spanish Government adopted Royal Decree Law 16/2022, of 6 September, that substantially amended Royal Decree 1620/2011, of 14 November, which regulates the special employment relationship for family household services, by increasing working conditions and Social Security for domestic workers. Notwithstanding that, it has been observed that “protection gaps”, compared to the ordinary regime, still exist (Camas Rodas et al. 2024, 6, 11, 12).

Both Italy and Germany ratified the Convention in 2013 and share the characteristic that their respective Governments have not amended national legislation to assure full conformity with the Convention. In Italy, domestic work is regulated by law 2 April 1958, n. 339, which has been minorly amended over the years, and is complemented by the explicit extension of some norms regulating the ordinary employment relationships, as well as by collective agreements, where applicable. Overall, the Italian legislator has never intervened to align the regulatory framework

¹² Government Bill, Prop. 2017/18:272, ILO:s konvention om anständiga arbetsvillkor för hushållsarbetare.

to the international source (Valluri et al. 2024, 42, 59). In Germany, the ILO Convention 189 became effective in September 2014 (Podgornik-Jakil et al. 2024, 25, 26), nevertheless, the legal framework has not been influenced by such ratification.

France and Poland have yet to ratify the Convention. In France, although trade unions are lobbying to promote the ratification, in view of the steady increase in the workforce in this sector, “the government believes that there is no real point in ratifying it on the grounds that there is a fairly well-developed Labour Code and collective agreements” (Daugareilh et al. 2024, 21). Indeed, on the one hand, the provisions of the Labour Code on harassment, 1st May Day, paid holidays, entitlement to leave for family events and medical surveillance of employees are applicable to domestic workers (Daugareilh et al. 2024, 20), on the other, a collective agreement with *erga omnes* effect has intervened to fill the regulatory gaps (see par. 3.1). In Poland, where collective bargaining in the sector does not exist, domestic workers are fully covered by the provisions of the Labour Code (Ludera-Ruszel, Kotarski 2024, 10, 12).

What follows linger on the main institutions that regulate the employment relationship in the sector. However, it must be also noted that all national reports stressed the existence of the phenomena of irregular employment and bogus self-employment in the sector, meaning domestic workers contracted as self-employed, but treated subordinate workers, sometimes coupled with the status of irregular migrant of the worker, who are mostly women.

4.1. Collective bargaining

As regards collective bargaining, although all countries concerned have experienced forms of trade union engagement (see, for instance Ronnmar 2024, 22 and Camas Rodas et al. 2024, 16-18), it is noteworthy to emphasise the cases of France and Italy, that, albeit in different ways offer constructive examples of collective bargaining in the domestic sector. In France, where individuals employing domestic staff are authorized by the Labour Code to “form trade unions for the defence of their common interests as employers and employees” (Daugareilh et al. 2024, 24), the *National Collective Agreement for individual employers and home-based employment* of 15 March 2021, extended to the whole sector, replaces the French Labour Code, by also extending the scope of application of the provisions of the Labour Code to domestic employees, “thereby bringing their status closer to that of employees under ordinary law” (Daugareilh et al. 2024, 20).

The Italian experience of collective bargaining in the sector is grounded on a different basis. In Italy, collective bargaining for the domestic sector was allowed only since 1969, thanks to a Judgment of the Italian Constitutional Court. Since then, domestic workers organisations and employers’ associations have negotiated collective agreements in a context where the national law for the sector was well established and the traditional political approach has always been that of providing for lower standards of protection for domestic workers compared to other sectors. Moreover, collective bargaining regulation in Italy has to face the phenomenon of the proliferation of collective agreements, sometimes signed by yellow trade unions (the CNEL has recently counted 30 collective agreements applicable to the domestic sector, see CNEL 2025), resulting in social dumping and in a reduction in workers' rights and wages (Vallauri et al. 2024, 22). In this context, it is appreciable that the collective agreement signed by the most representative trade unions (so-called Ccnl FIDALDO) increases at least certain standards, such as that of extending the protection against dismissal for pregnant women, and until the end of

the period of compulsory abstention from work, which, instead, is not guaranteed by the law (Vallauri et al. 2024, 57).

4.2. Health and safety

The application of the principle of equal treatment in health and safety regulation for domestic workers varies in intensity depending on the legal systems examined.

In Poland, Sweden and Spain domestic workers are covered by general labour legislation on health and safety (Ronnmar 2024, 8; Camas Rodas et al. 2024, 12). However, in Spain this protection is still ineffective. Indeed, even if, Royal Decree 893/2024 extended the application of the 1995 Prevention of Occupational Risks Act (which applies to all workers), by providing the necessary adaptations to the specificities of the household as employment space; in practice, to determine the details of such an extension a government order is needed and it has not been adopted, yet (Camas Rodas et al. 2024, 33, 34).

In France, even if there is no explicit extension of the ordinary labour norms on health and safety to domestic workers, this matter is regulated by the *erga omnes* collective agreement, that provides for a fair degree of protection. Indeed, the *National Collective Agreement for individual employers and home-based employment* of 15 March 2021 sets out the provisions on health and safety in domestic work in Annex 1 of the same contract.

Germany and Italy share the legislative choice – contestable in light of the ILO source, but in line with the prescriptions of the OSH Framework Directive – of excluding domestic workers from the ordinary law on health and safety, without simultaneously providing for a supplementary regulation: in Germany, according to Sec. 1 (2) 1 Occupational Safety and Health Act (Arbeitsschutzgesetz, ArbSchG), domestic workers are excluded from health and safety law (Podgornik-Jakil et al. 2024, 25); while in Italy, domestic care workers fall outside the scope of application of the law on health and safety measures at work (d.lgs. 81/2008), even though, recently, the Cassation Court has established that art. 2087 of the Civil Code, that creates a contractual obligation of the employer to ensure the health and safety of its workers, apply also to this sector¹³ (Vallauri et al. 2024, 59).

4.3. Questions on working time

It is worth emphasising that the Court of Justice has recently adopted a restrictive interpretation regarding the possibility of excluding family-based labour from the Working Time Directive, an option that is, by contrast, widely used as a derogation mechanism in Italy and certainly in Spain as well, at least with respect to the measurement of working time¹⁴.

¹³ Corte di Cassazione 24.08.2023 n. 25217.

¹⁴ Cjeu, 19.12.2024, C-531/2023, *Loredas*.

Among the many possible issues, one that appears particularly relevant – especially for live-in carers – is the classification of on-call time. In this regard, the reports from Germany and Poland offer particularly insightful reflections. Indeed, although live-in workers are frequently expected to remain available almost continuously, on a 24/7 basis, both statutory provisions and contractual arrangements impose clear limitations on the duration of their working time. Consequently, the expression “24-hour care” proves to be legally inaccurate and potentially misleading (Podgornik-Jakil et al. 2024, 22).

In Poland, on-call time is considered working time only insofar as the employee actually performs work during that period; otherwise, it is not classified as working time. However, when the employee is required to remain on-call at the workplace is entitled to an appropriate period of rest. This provision does not apply to situations in which the employee is on-call while at home and it has been observed that the Polish regulation on this matter raises concerns regarding its compliance with Directive 2003/88/EC (Ludera-Ruszel, Kotarski 2024, 25).

Germany, where domestic workers are included in the Working Time Act (*Arbeitszeitgesetz, ArbZG*), recently provided a good practice: in June 2021, the Federal Labour Court (*Bundesarbeitsgericht, BAG*) held that most of the on-call time of the live-in-worker concerned had to be considered working time for which minimum wage had to be paid (*BAG*, decision of June 24, 2021 – 5 AZR 505/20). (Podgornik-Jakil et al. 2024, 25).

Furthermore, it is relevant to emphasise that, from a psycho-social perspective, the respective phase of the CARE4CARE project has showed that, in practice, there is a lack of control by workers of working time either due, or/and delivered. These findings raise awareness on the fact that there is the need to intervene also to make working time more certain (Kocher 2024, 12).

4.4. Dismissal regimes

Although the ILO Convention 189 does not provide for an obligation of Member states to apply the principle of equality also to terms and condition of dismissal, the regulation of the employers’ power to unilaterally terminate the employment contract of the domestic worker is evidently a crucial matter, as the employment stability also influences the workers’ capacity to claim for the enforcement of his/her rights during the employment relationship and it has an impact on the structural inequality of these workers.

In this respect, the most controversial case is represented by Italy, where the domestic employer does not have the duty to justify the dismissal and termination of employment at will (with notice) is allowed (Vallauri et al. 2024, 42). While in Germany, there is a debate around the possibility to consider the private household an establishment, to decide whether the ordinary framework is applicable (Podgornik-Jakil et al. 2024, 42).

For Poland, also from this profile the source is the Labour Code (Ludera-Ruszel, Kotarski 2024); and in Spain, France and Sweden a special regulation is established.

The Spanish reform of 2022, that amended the law on domestic work regulation, eliminated the employer’s right to terminate the employment relationship without cause or solely on the basis of a unilateral decision. Termination is now generally subject to the principle of causality and

must be duly justified. The grounds for dismissal may include those established in the Workers' Statute or, alternatively, those specifically introduced for domestic work under Royal Decree 1620/2011, namely: a) a decrease in household income or an increase in expenses resulting from a sudden change in circumstances; b) a significant change in the household's needs justifying the redundancy of the domestic worker; c) a conduct on the part of the worker that, in a reasonable and proportionate manner, undermines the employer's trust. Nevertheless, in the context of domestic work, severance pay in the event of dismissal is limited to an amount equivalent to twelve days' wages per year of service, with a cap of six-monthly payments, an amount lower than that provided for under the Workers' Statute. It is, in fact, also lower than the compensation awarded in cases of unfair dismissal, where a court finds that the termination — whether for objective or disciplinary reasons — was unjustified (Camas Rodas et al. 2024, 28, 29).

In France, the decision of the private employer to terminate the employment contract must be justified by a genuine and serious cause, or by the employee's gross or serious misconduct and specific provisions are established by the *National Collective Agreement for individual employers and home-based employment* of 15 March 2021. In Sweden, the (1970:943) Act on Working Time etc. in Domestic Work contains detailed provisions on dismissal, without however including any requirement for objective grounds for dismissal and providing for a shorter notice period compared to ordinary norms (Ronnmar 2024, p. 8).

5. Conclusions: insights from the CARE4CARE policy proposals

This paper has highlighted the variety of legislative approaches towards domestic work regulation (including live-in carers) in six EU Member States and the widespread risk of failing to comply with the principle of equal treatment of such workers compared to workers of other sectors. Surprisingly, the ratification of the ILO Convention 189 is not a guarantee of compliance with the above-mentioned principle.

The CARE4CARE policy paper, elaborated by Eva Kocher, on the grounds of a joint reflection developed by the whole Consortium, has addressed the necessities of care workers by promoting actions at both national and European level. Being unsuitable to address all possible relevant profiles, the policy indications have focused on some policy objectives, bearing in mind that “the EU has only very limited competences; responsibilities lie mainly with the Member States” (Kocher 2024, 7).

In the whole care sector, thus including domestic workers, there is the necessity, linked to the enforcement of health and safety rights at work, especially in relation to psycho-risks such as burnout, to guarantee effective limitation of working time. In that respect, the European Social Partners, also following a possible initiative of the European Commission “should look into possible sectoral measures” for care work (Kocher 2024, 15) and the National legislators should consider providing for an effective right to disconnect, to create time-space “in which employers are not allowed to contact workers”, to reduce the stress level of these workers (Kocher 2024, 12).

Live-in work is the focus of a special session of the document. Among the various proposals, in this context, it is to be highlighted, first, the call “to ratify and fully implement the ILO Domestic

Workers Convention 189” (Kocher 2024, 16). Considering the elements raised in the previous sections, both the ratification and full implementation of the Convention should be at the centre of national states’ attention.

Still, among the national measures that should be taken, Member States not only have to ensure health and safety at work also for live-in carers, but they should engage in constructing a regulatory framework for health-and-safety at work, that includes the already mentioned right to disconnect and it is “adapted to the special characteristics of live-in care work” (Kocher 2024, 17), as it is already the case in some of the experiences addressed above. Indeed, the specificities of employment in a private household “require the design and implementation of specific instruments to facilitate law enforcement in the sector” (Kocher 2024, 17). At the same time, the EU “should clarify that domestic workers, including live-in care workers, fall within the scope of OSH Framework Directive 89/391/EEC”. Questioning the remaining exclusions from labour standards in EU law should imply also “a full inclusion of (domestic) live-in workers in the Directive (EU) 2019/1152 on transparent and predictable working conditions in the European Union” (Kocher 2024, 19).

Last, and paramount to assure a widespread application of the existing and the promoted standards of protection, the European Commission should consider the elaboration of a “Directive creating a rebuttable presumption of employment for this sector” (Kocher 2024, 18), by taking as example the Platform work Directive, with the aim to improve the consistency and strength of such a presumption.

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