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International Migration Programme

*The Gender Dimension of Domestic Work in Western Europe*

Maria Gallotti

INTERNATIONAL LABOUR OFFICE – GENEVA

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## Foreword

The *International Migration Papers* (IMP) is a working paper series designed to make quickly available current research of ILO's International Migration Programme on global migration trends, conditions of employment of migrants, and the impact of state policies on migration and the treatment of migrants. Its main objective is to contribute to an informed debate on how best to manage labour migration, taking into account the shared concerns of countries of origin and employment for generating full and productive employment of their nationals, while at the same time respecting the basic rights of individual migrant workers and members of their families.

In Western Europe, as in many other parts of the world, domestic work has the characteristic of attracting a large and increasing number of female migrants. In this report, Ms. María Gallotti examines the current situation of domestic workers in Western Europe, focusing in particular on women migrant workers, and recognizing them as belonging to one of the largest female dominated occupations and one of the least protected groups of workers under international and national labour legislation. The report has the purpose of demystifying clichés and identifying existing regulations, rules and practices governing the subject in selected countries of the region as well as possible strategies various actors can adopt to facilitate their successful integration into European labour markets. The report states that their situation, as well as the legislation covering them is rapidly evolving to better respond to the existing increasing demand.

Within the ILO, the discussion on how to guarantee a better protection to this category of workers and recognize domestic work as a source of decent employment dates back to the early 1950s. Important steps have been taken in many parts of the world in this direction, but it is only today that the political discourse is mature enough to push the agenda forward. The ILO Governing Body has recently agreed to include a discussion on domestic workers in the agenda of the 2010 International Labour Conference for the purpose of developing a new international instrument. This is a fundamental step forward and should be warmly welcomed. In order to prepare for this important meeting, it is necessary to develop and expand the knowledge base and stimulate the debate around the possible strategies to improve the working and living conditions of domestic workers

Far from being exhaustive, we hope that this report can positively contribute to this debate at the European and international level. It is meant to support social partners make the point of the current situation and identify actors that need to be involved, the main challenges, and possible responses. Mobilization of all actors involved is now needed to promote discussion and a successful exchange of knowledge and experience that will contribute to design a new international instrument that can effectively respond to the needs of this category of workers and recognize their labour rights.

Geneva, March 2009

Ibrahim Awad  
Director  
International Migration Programme

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My thankfulness goes to the European Trade Union Confederation (ETUC) and to other organisations and institutions -such as RESPECT-Germany, “Madrid entre dos orillas” Spain, Kalaayan United Kingdom and Veneto Lavoro Italy- for having also kindly shared with me very useful information and publications.

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## Introduction

Domestic work is a source of employment for millions of women around the world. Thousands of them live in Western Europe, most of who come from less developed countries in search of a better life for themselves and their families. They provide essential service to the countries of destination and contribute to the wealth of their aging societies and to the sustainability of their welfare and employment systems.

There is no acceptable justification for domestic work not to be also a source of decent work for them all. This is the starting point of this report and its underlying motivation. This is also the reason why the report embraces an empowerment viewpoint rather than vulnerability one. The report recognizes that many domestic workers, especially irregular migrants, are particularly exposed to exploitation and abuse, yet it looks at how domestic work manifest itself and it is regulated in the current western European context to argue that exploitation arises from a complex interaction of factors only partially linked to the “vulnerabilities” of migrant women. For historical, social and cultural reasons domestic work has simply traditionally been dealt with as part of the private sphere of the economy. It has been attributed a low social and economic value. European legislative and social systems are still very much reflecting this approach and the growing insertion of national women into the labour market seems to have simply shifted the burden from national to immigrant women.

The report has three main sections and a final part with conclusions and recommendations. Section one looks at the characteristics of domestic work in the Western European context, the socio-economic factors that affect the labour demand and supply in this sector of employment and are determinant to its “low value”. It also looks at the regulatory system covering domestic work at the international and regional level, as well as and in selected Westerns European countries. It highlights how the law generally tends to confirm and reinforce the social appreciation on this occupation by allowing domestic workers lower levels of protection and recognition of labour rights than those granted to other categories of workers.

Section two focuses on the situation of migrant workers, who nowadays constitute the large majority of the household workers in many Western European countries. After providing some fact and figures on the dimension and characteristics of the phenomenon, this section looks at the various types of Western European migration regimes and how they deal with migration for the purpose of domestic work. It highlights that migration and employment statuses are intimately interrelated and should be looked at as in a fluctuating spectrum between regularity and irregularity rather than as clearly defined and static situations. Based on available research and statistics in selected Western European countries, this section finally tries to provide an overview of the prominent characteristics of today’s migrant domestic workers and of the working and living conditions they tend to find themselves.

Section three includes a selection of cases studies on the specific situation of domestic workers in a few Western European countries for which information has been more easily accessible and/or where the issue is currently object of political discussion and legislative change. The purpose of this session is to provide a sample of how some countries, particularly those with high numbers of immigrant domestic workers, are dealing with the subject, with the view to present a range of possible policy responses. It also includes description of different types of practices and programmes adopted by Trade Unions and NGOs to move the agenda forward. This section has been developed thanks to the support of a variety of activist individuals and organizations that have provided and revised the information presented. It is by no means an exhaustive list, but hopefully it gives an idea on some recent initiatives on the subject.

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Finally, the report includes a set of conclusions and recommendations for action. While important recent efforts of individuals and organizations, particularly Trade Unions and NGOs, have largely contributed to put the subject high on the international policy agenda, still too little attention is given to the recognition of domestic work as a decent and dignified source of employment, which is in our view at the very origin of exploitation and abuse of many migrant women in Europe.

The decision of the ILO Governing Body to put domestic work on the agenda of the 2010 International Labour Conference for the purpose of developing a new international instrument on the subject therefore marks a fundamental step forward and should be warmly welcome. Mobilization of all actors involved is now needed to promote discussion and exchange of knowledge and experience from different parts of the globe, so that a new international instrument will be designed to effectively respond to the needs of this category of workers and finally recognize their labour rights.

This report is based on the review and analysis of existing secondary research, policy papers, statistical data, official EU documents, published and unpublished academic articles and presentations on the subject of domestic work, gender and migration in Western Europe. It is also based on the review of labour and migration legislation, mostly in their original language version.

Provided that the subject crosses along the interconnected areas of migration, employment promotion and gender equality, a wide range of documentation covering these areas had to be reviewed with a view to providing an as complete as possible overview on the problematic. Use of original policy and legislative documents, such as EU reports, directives and recommendations and national laws, has been pursued as much as possible.

Collaboration of relevant individuals and organization has been key for the collection of first hand information on the most recent initiatives and developments in specific countries.

Given the short time frame under which the research has been carried out it can be considered far from exhaustive. Yet, it attempts to provide a general overview on some of the most relevant challenges affecting migrant domestic workers in Western Europe and on a wide range of current initiatives to address these challenges.

In view of the preparation to the discussion of a possible international instrument on the subject, an in depth, comparative review of current legislation of European countries is considered indispensable.

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## Section 1 – The Gender Dimension of Domestic Work

### 1. Main characteristics

#### 1.1 A poorly defined occupation

An International Labour Organization (ILO) meeting of experts in 1951 provided the first definition of domestic work. A domestic worker was defined as a “wage earner working in a [private] household, under whatever method and period of remuneration, who may be employed by one or several employers, and who receives no pecuniary gain from this work”.<sup>1</sup> The ILO’s International Standard Classification of Occupations (ISCO), 1988 includes a detailed listing of the wide variety of tasks that a domestic worker could be performing (see box below).<sup>2</sup> At present an important revision of the ISCO, 1988 is undergoing and draft definitions for occupational groups are available for comments on the ILO web-site. The ISCO 08 version will be then ready to meet the needs of the 2010 round of population and housing censuses.<sup>3</sup> An integral version of the “Draft ISCO-08 Group Definitions: Occupations in Cleaning and Housekeeping” is included in the Annexes.

Yet, there is no universally agreed definition of domestic work, and no specific international regulation is in place. States, even within the EU have taken different legislative and policy approaches to the issue and use the term “domestic work” to refer to a more or less ample list of tasks related to the two broad areas of family care and household maintenance, ranging from child carers to security guards, gardeners, depending on the national context.

Nevertheless, at least two common elements seem to recur in all definitions. One is the private character of the workplace, which implies a coincidence between the public sphere normally related to employment relationships and the private nature of family and household dynamics. The other element is the juridical status of the employer, who is normally defined as a private employer, not an enterprise, who would otherwise receive pecuniary gains from the employee’s work.<sup>4</sup> Both factors are keys to determining the peculiarity of the employment relation and the widespread low level of protection guaranteed to the workers of this sector. The connotation of the definition remains very broad and, depending on the national context, it might include a list of more or less specifically detailed tasks that could be performed as part of the responsibilities of a domestic worker. As some scholars have pointed out, domestic work cannot be defined in terms of the tasks it could encompass, but rather in terms of the role that the domestic worker plays in a given social context, which is defined by general attitudes and perceptions. This context is mainly determined by gender, class [and ethnicity] relationships prevailing in a given society.<sup>5</sup>

<sup>1</sup> ILO, The Status and Conditions of Employment of Domestic Workers. Meeting of Experts, Geneva, 2-6 July 1951, Report 3, Document MDW/8

<sup>2</sup> ILO, International Standard Classification of Occupations, 1988, Geneva, 1990.

<sup>3</sup> Tripartite Meeting of Experts on Labour Statistics, Resolution Concerning Updating the International Standard Classification of Occupations, December 2007

<sup>4</sup> In some cases though, employment by enterprises is still foreseen by national legislation as a possibility, even under the definition of domestic work. This is the case for example of a legislative proposal on domestic work currently being discussed by the Spanish parliament.

<sup>5</sup> Colectivo IOE, “Mujer, inmigración y trabajo », Ministerio de Trabajo y Asuntos Sociales, Instituto de Migraciones y Servicios Sociales (IMSERSO), Madrid 2001, p. 163

#### Box 1. ILO's ISCO, 1988: Tasks that domestic workers can be required to perform

- # 5121. Task include: a) engaging, training, discharging, organizing and supervising workers employed as domestic staff; b) purchasing or controlling the purchase of supplies; c) controlling storage and issue of supplies; (...) e) assisting in cases of minor injury or illness by performing tasks such as taking temperature, giving medicine, putting on bandages; f) performing related tasks; g) supervising other workers.
- # 5122. Tasks include: a) planning meals, preparing and cooking foodstuffs; b) planning, supervising and coordinating work in the kitchen; c) performing related tasks; d) supervising other workers.
- # 5131. Tasks include: a) assisting children to bathe, dress and feed themselves; b) taking children to and from school or outdoors for recreation; c) playing games with children or entertaining children by reading or storytelling; d) maintaining order in children's bedrooms and playrooms; (...) g) performing related tasks; h) supervising other workers.
- # 5133. Tasks include: a) assisting persons in getting into and out of bed and making the appropriate change in dress; b) changing bed-linen and helping persons with their bath and toilet; c) serving food – prepared by them or others - and feeding persons needing help; d) giving or ensuring that persons take the necessary medicaments; e) watching for any sign of deterioration in the person's health and informing the relevant medical doctor or social services; f) performing related tasks; g) supervising other workers.
- # 5169. Tasks include: a) patrolling buildings and areas to prevent theft, violence, infractions of rules or other irregularities; (...) performing related tasks; g) supervising other workers.
- # 9152. Tasks include: c) watching houses and properties to prevent illegal entry or theft, fire or other hazards.
- #6113. Tasks include: a) determining kinds and amounts of vegetables, horticultural and nursery products to be grown; b) purchasing seeds, bulbs, fertilizers and other supplies; (...) f) cultivating flowers, trees, shrubs and other plants (...) in private gardens; (...) J) tending working animals and maintaining buildings, machinery and equipment; k) performing related tasks; l) supervising other workers.
- Tasks include. a) driving and tending household members; b) delivering and collecting packages, shopping or mail; c) cleaning and maintenance of vehicles; d) performing related tasks.

Source: ILO, International Standard Classification of Occupations (ISCO), 1998 Group Definitions: Occupations in Cleaning and Housekeeping, Geneva, 1998.

In spite of the poorly defined nature and of the different forms domestic work may take even within Europe, a number of common and sometimes preoccupying characteristics can be identified, such as:

- It is a growing phenomenon in quantitative terms.
- It is mostly performed and still very much perceived as a “women’s issue”, and it is therefore poorly valued in social and economic terms.
- It is highly personalized, isolated and often emotionally charged.
- It includes a variety of heterogeneous tasks of a domestic nature, ranging from family care to household maintenance and cleaning, all of which are perceived as “low skilled”.
- It entails an “atypical employment relationship”, often falling outside the scope of general labour law.
- It is often carried out within the unregulated area of the informal economy.

- 
- It is increasingly dominated by migrant workers and implies a combination of gender, social, ethnically and racially determined inequalities and asymmetric power relations.

Prof. Helma Lutz pointed out in her recent book “that there are reasons to argue that domestic work is *not just another market*, but that it is marked by the following aspects: the intimate character of the social sphere where the work is performed; the social construction of this work as a female gendered area; the special relationship between employer and employee which is highly emotional, personalised and characterised by mutual dependency, and the logic of care work, [which] is clearly different from that of other employment areas.”<sup>6</sup>

Finally, domestic work could be broadly subdivided in three different subcategories, on the basis of the type of employment relationship:<sup>7</sup>

- Live-in domestic workers
- Live out, full time domestic workers
- Casual or hourly paid domestic workers

The working and living conditions might largely vary from one category to the other. While official statistics differentiating among these three sub-categories are mostly unavailable, European national laws often deal with the specificities arising under each type of working relationship, as this report will try to highlight. These three employment patterns might be more or less predominant in different European countries. For example, in comparison to some southern European countries where live-in domestic work is quite a widespread phenomenon, this is a rather unusual arrangement in Germany and in other Northern European countries where caring services are very much a prerogative of public institutional providers.

Different types of employment arrangements also tend to attract differently national and non-national workers. The level of informality of the employment arrangement can also vary considerably and the presence of migrants in an irregular situation can be significantly different according to the different employment patterns. Live-in employment, for example, might be a preferred solution for newly arrived migrants both in regular and irregular situations as it might provide a readily available solution to accommodation problems. In the case of irregular migrants, it might provide a way to escape labour and migration authorities’ controls. On the other hand, as this report will highlight further, the bargaining power and independence of a domestic worker to negotiate working and living conditions might be significantly higher in live-out, multiple employers’ situations.

## **1.2 An expanding and female dominated occupation**

Domestic work is first of all still a women’s issue, not only because both employers and employees tend to be women (who in many cases are delegated the responsibilities of dealing with the domestic worker as part of their gendered role within the household, while the official employer, the head of household, is still the man), but also because the work

<sup>6</sup> Helma Lutz: “Migrant Domestic Workers in Europe”, 2007.

<sup>7</sup> Patricia Weinert, “Foreign Female Domestic Workers: Help Wanted!”, International Migration for Employment, ILO Working Paper, 1991

performed is “a particularly gendered activity”.<sup>8</sup> EUROSTAT data of 2008, report that the two occupational categories ‘domestic helpers’ and ‘personal care workers’ employ together around 14 per cent of women in the EU25 in 2005, while they employ an almost insignificant percentage of men.

Women’s overwhelming participation in domestic work is not a new phenomenon to Western European countries, nor is migrants’ presence among domestic workers.<sup>9</sup> On the contrary, demand for domestic services by private households has steadily grown over the past decade in many parts of Europe.

Table 1. ISCO-88 occupation codes (EU-25 top six sectors)

Women		Men	
Code	Description	Code	Description
522	Shop sales persons and demonstrators	832	Motor vehicle drivers
913	Domestic & related helpers, cleaners & launderers	712	Building frame & related trades workers
513	Personal care & related workers	131	Managers of small enterprises
419	Other office clerks	713	Building finishers & related trades workers
343	Administrative associate professionals	311	Physical & engineering science technicians
512	Housekeeping & restaurant services workers	723	Machinery mechanics & fitters

Source: EUROSTAT 2008 “The life of women and men in Europe - A statistical portrait”, Statistical Book, Brussels, 2008 edition

In spite of the difficulties to accurately quantify the number of often-unregistered employees in this sector, statistical evidence confirms this statement. In Spain, women account for more than 90 per cent of the total number of employees in this sector, domestic work representing the largest single area of female employment.<sup>10</sup> Moreover, the employment rate in this sector has inverted its decreasing trends since 1994 and since the beginning of this decade has grown faster than the female employment rate in all other sectors. Belgium is estimated to have around 20,000 domestic workers, 89 percent of whom are women. In Austria, more than 95 percent of the 8,900 domestic workers officially accounted for in 2005 are female.<sup>11</sup> In the Netherlands, 25 per cent of elderly persons are estimated to engage paid domestic help.<sup>12</sup> In Italy, the National Institute for Social Security (INPS) calculated a total number of more than 460,000 employees in domestic work in 2006, 87.5 per cent of whom women and 73 per cent foreigners. Another recent Italian research confirming data produced by the Statistical Institute (ISTAT) claims that the actual number could largely pass one million workers.

<sup>8</sup> Helma Lutz and Susanne Schwalgin, “When Homes become a Workplace: domestic work as an ordinary Job?” Paper presented on the international Conference on “Migration and Domestic Work in Global Perspective”, Wassenaar, 26-29 May 2005

<sup>9</sup> For an historical overview of domestic work, focused on in the Italian context, see: “Wet-nurses, nannies and governesses at the crossroad between cultures, classes and countries” paper presented at the “International Conference on Migration and Domestic Work in Global perspective”; Wassenaar, 26-29 may 2005.

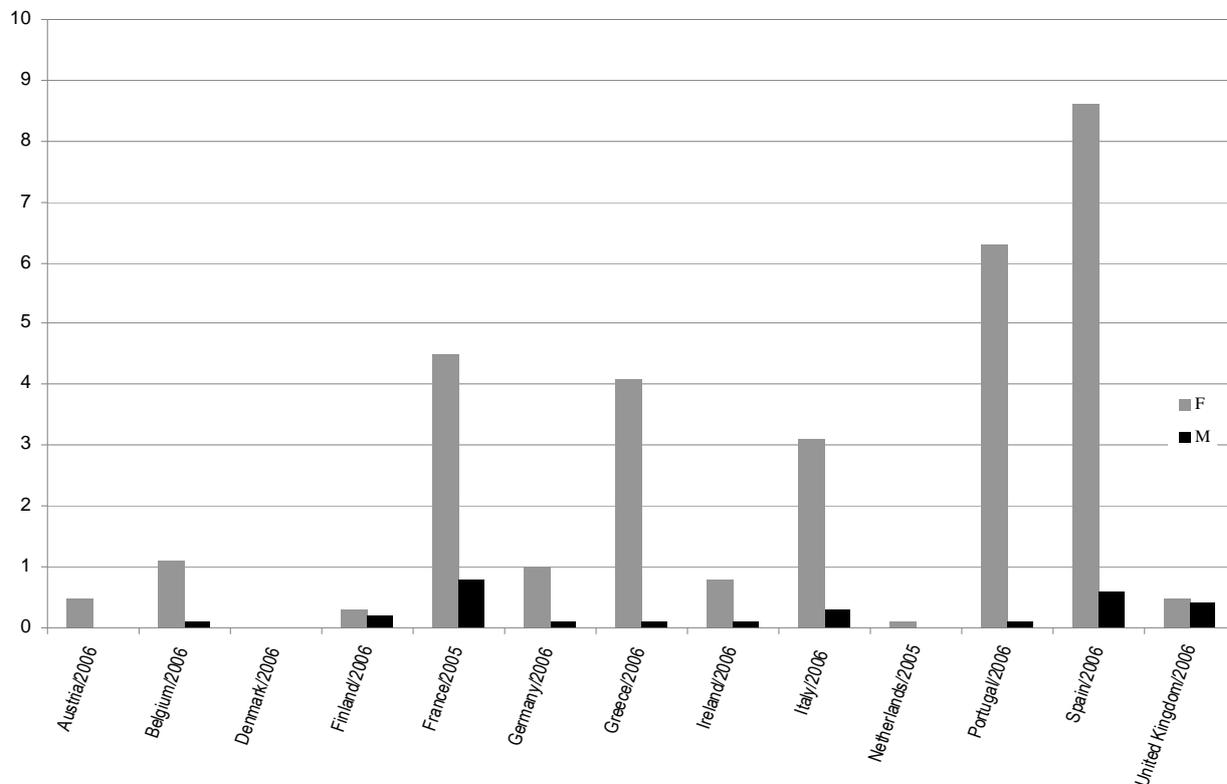
<sup>10</sup> Panorama Sociolaboral de la mujer en España, número 23, Primer trimestre 2006, Consejo Económico y Social.

<sup>11</sup> ILO/Laborstat, online yearly statistics on paid employment by economic activity.

<sup>12</sup> Sarah van Walsum, “The changing legal context of domestic work in the Netherlands” Paper presented to the conference “New dynamic: regular and irregular activities on the European Labour Market”, December 6-8-2007, Nice, France.

The figure below provides an overview of the relative weight of this sector<sup>13</sup> in selected European countries, as a percentage of total employment, disaggregated by sex.

Figure 1. Employment by sector level (ISIC-Rev 3, 1990): P – private household with employed persons, % of total employment, 2005-2006



Source: ILO, Key indicators of the labour market (KILM), 5th Edition (Geneva, 2007).

The increasing economic value and contribution of the sector is also a fact that the scarce data available for some countries are clearly highlighting. In the United Kingdom the amount of money spent on domestic services has quadrupled between 1987 and 1997, from £1.1 billion to £4.3 billion according to reports.<sup>14</sup> In Italy, families are estimated to spend annually an amount of more than 11 billion Euros.<sup>15</sup> In Germany a report produced by the International Monetary Fund point out that this sector's contribution to GDP stood around 2.7 billion euros in the late 90s.<sup>16</sup>

Another peculiarity of domestic work is that it is not only dominated by female workers, but also by female employers. As this report will try to analyze, this seems to be directly attributable to the traditional division of productive and reproductive roles along gender lines, that still very much prevails even in the most advanced modern societies. While European women's progressive insertion in the labour force is often seen as an accomplishment in terms of gender equality, evidence shows that they still remain in

<sup>13</sup> ISIC Rev.3 code 950: "Private Household with employed persons", United Nation Statistics Division: <http://unstats.un.org/unsd/cr/registry>

<sup>14</sup> Data of Mintel January 1997, reported in: Alexandra Jones, "Domestic: UK domestic Workers and their reluctant employers", The work Foundation, 2004.

<sup>15</sup> Research conducted by "Il sole 24 Ore" and quoted in "Dati INAIL. Andamento degli infortuni sul lavoro" Number 7, July 2007.

<sup>16</sup> Schneider and Enste, quoted in Helma Lutz and Susanne Schwalgin, "When Homes Become a Workplace: Domestic work as an ordinary Job?" op. cit. 2005

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charge of the main household and family responsibilities, which they then delegate to other women. In many cases, they are neither prepared nor capable of assuming the role of “employers”, especially with regards to an area that has traditionally belonged to their own unpaid reproductive work. They therefore tend to transfer the same character of informality to the employment relationship. In this transforming reality, the underlying assumptions on the gender roles do not seem to be significantly challenged, but rather transferred and replicated in the relationship between two women, the national employer and the domestic worker, usually a migrant worker, along the nationality/ethnicity divide. The unprecedented share that migrant women have of the labour force in this sector is in fact another recent and undeniable feature of the phenomenon, which this report will analyze in detail in the next chapter.

### **1.3 A largely informal activity in the “care economy”**

Discrepancies in the statistical figures on the actual numbers of domestic workers reflect the high incidence of informality in the sector which -to different extents- seems to be highly widespread across Europe. Some sources report an estimate of 70 to 80 per cent of undeclared, irregular jobs in this sector in Europe.<sup>17</sup> A study conducted in 2002, for example, suggests that in Germany “4.35 million households employed domestic workers in 2000 which represents 11.3 per cent of all German households”. Fewer than 40,000 contracts were officially registered with the Federal Employment Agency in the same year.<sup>18</sup>

Reliable statistical data on the size and composition of the informal economy and on the share of migrants involved in these kinds of activities are often unavailable and sometimes incomparable, but there is general agreement that this has been a growing phenomenon in spite of numerous attempts to tackle the issue, including the adoption of increasingly restrictive migration provisions. Evidence shows that migrant women -mostly but not exclusively undocumented- constitute a large share of European informal economy and are mainly concentrated in informal employment in the area of household and care services.

The reasons behind informality are numerous and complex, particularly for migrant women whose immigration and employment status are intimately linked and influenced by gender, ethnicity and class-related factors. Cumbersome and/or too onerous administrative procedures for the registration of domestic work, especially in presence of an abundant, flexible and cheap workforce, might also act as a deterrent for employers to regularize domestic workers, in particular when the worker only works for a few hours per week. In some cases it is the existing legislative framework that leaves no other option than informality. This is the case for example of some legislation that excludes part time or occasional work from the obligation to formalize the working relationship. Of course this is further complicated for migrant domestic workers, as most European countries’ immigration laws do not foresee the possibility to obtain a residence permit for the purpose of domestic work. European countries have adopted a number of measures to try and reduce the rate of informality in the domestic sector, ranging from strengthened law enforcement mechanisms and introduction of heavier sanctions on both employers and workers who enter an irregular working relationship, to measures aimed at promoting regularization through fiscal and administrative incentives. Far from suggesting a one size fits all solution to a problem that manifest itself in many different forms and is largely

<sup>17</sup> CES-ETUC: “Out of the Shadows Organising and protecting domestic workers in Europe: the role of trade unions” Brussels, 14-15 April 2005

<sup>18</sup> Tilmann Brück, John P. Haisken-DeNew: “Creating Low Skilled Jobs by Subsidizing Market-Contracted Household Work”. Discussion Paper No. 958, Iza, Bonn, December 2003

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influenced by the local labour market structure, the following box summarizes some examples of policies adopted by selected European States. As this report will further emphasise, all these policy measures are generally applicable to the situation of documented migrants showing little if no impact on tackling irregular migration. At most they would act as an indirect incentive to the employer to regularize the employee's migration status, in those few countries where this is allowed by migration law, as the regularization of the employment status must be accompanied by regularization of the residence status of the domestic worker.

#### Box 2. Voucher system "Chèques emplois services"

The "voucher system" was introduced in France in 1995 to fight undeclared domestic work, by ways of reducing the administrative complexity linked to the hiring of domestic labour. The voucher system allows each employer to declare their full or part-time employee to social insurance and tax authorities with a rather simple procedure. They have to fill in a template form and this enables an automatic deduction from their bank account. The system can be used both for short term or occasional employment and for long term regular one. As similar system have been introduced in Germany in 1997, though initially only for employment above a certain threshold of hours per month. While similar models have been applied in other European countries, such as Belgium, this system has shown different levels of success according to the country context. Through the Belgium voucher system an intermediary company provides the services of domestic workers; a private employer can buy tax deductibles vouchers to give to the domestics for each hour worked. The worker then submits the voucher to an agency hiring them (usually cleaning company or temporary employment agency) and receives wages per hour worked. Unions have supported this system as, combined with a system of tax deductions, it seems to have had a positive impact, especially on those workers, regularly residing in the country, who were registered under the category of "unemployed".

##### Fiscal deductions for employers

Fiscal policies have been another common policy measure to encourage employer to register their employees. Many European laws, including Germany and Italy, currently envisage some forms of fiscal deduction for domestic services. Nonetheless the system of fiscal deduction has showed little impact on the level of irregular employment in domestic sector, among others for the often-occasional nature of this work and the little control capacity of fiscal authorities over private households, which makes registration less interesting to the employer.

##### Professionalization of domestic work

Pilot attempts to "professionalize" the provision of domestic services have taken place in various forms in different countries. In Germany for example during the 90s, subsidies were given to service placement agencies, charged of providing domestic private households with the service of domestic workers. Workers employed through these agencies would be granted social security coverage and professional and vocational training opportunities. The German experiment though had limited success as the placement agencies show little financial sustainability once public funding support expired. Again, the competition with a lively black market made it insufficiently attractive to employers to use this policy instrument.

Note: For more information on the voucher system in France, see the web site of Chèques emplois services Universel at <http://www.cesu.urssaf.fr/cesweb/home.jsp>

In spite of the ample range of policy measures available to fight irregular employment, what becomes clear is that no policy measures can be successful in isolation. A combination of these and others has to be put in place together with a tighter system of monitoring and enforcement. It has been noted for example that the voucher system on the one hand tends to raise the non wage cost of domestic labour for the employer and on the other hand it does not necessarily have an effect on the working conditions of the employee. Regularization of the employment situation might therefore still be uninteresting for both employers and workers. While this system seems to have worked in some countries, in other contexts it has shown little impact on irregular employment even when accompanied by tax exemptions or reductions, since these measures seem to have nullified each other in terms of non-wage costs. Finally, and most importantly, all these measures only deal with the top of the iceberg, the regularly resident workers. Migrants in an irregular status, who constitute the largest share of domestic workers in Europe, are excluded from the coverage of these policies, with oblivious consequences on the

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incidence of informality on the sector. Experts have pointed out that these policy measures can in fact only offer short term support, while public provision of care services is actually shrinking in most European countries.

It should also be noted that when registration of employment becomes a condition for eligibility for regular residence status, like in normalization processes carried out in Italy and Spain over the last decade, national authorities have been able to register a significant increase of employment relationships in the domestic sector.

The growing phenomenon of informality is in fact intimately linked to irregular labour migration flows. While the current perception, sometimes supported by the media, is that irregular migration can be seen as a reason for growing informality, some scholars highlight that the very existence of informal employment opportunities might act as a magnet for irregular migrants and to a certain extent even for documented migrants who both fuel and draw to the vibrant “underground economies”. In this perspective a flourishing informal labour market, like the one that prevails in the area of domestic and care services, would actually become an underlying cause of irregular migration, rather than a consequence of it. This has of course major policy implications in terms of policy response, as it suggests that a restrictive migration policy would in fact have little effect on the existence and flourishing of informal arrangements within the sector. A combination of targeted migration policies and labour regulation of the sector might prove more effective.

As some scholars have rightly pointed out, for a variety of reasons that this report will attempt to further describe, how domestic work tends to fall somewhere between the commodity and non commodity economy<sup>19</sup>, as part of what has been defined as the “care economy”. This concept has been used to include all the, mostly unpaid, invisible and inaccurately measured work usually performed in the domestic sphere as a way of contributing to the social reproduction and maintenance of the labour force. Division of productive and reproductive roles along gender lines has always shaped women’s participation and contribution to both public and private economies. Empirical evidence shows that women’s presence prevails in all economic aspects somehow linked to the care of others, including education, child rearing, health assistance and all other tasks associated with the maintenance of the household and for which women are perceived to have “natural skills”. Feminist economists and researchers have alimented the political debate on this issue, pointing out that -though mostly unrecognized and unaccounted for- the monetary value of unpaid work can be equivalent to half of a country's Gross Domestic Product (GDP). The low value attributed to unpaid work seems to be equally ascribed to remunerated activities in the domestic sector, which generally appears among the low skilled, low paid employment categories.

Linked to the issue of the recognition of the monetary value of domestic work is the very complex issue of the recognition of the “skills” required to perform the job. Since domestic work tends to be regarded as a “naturally female” responsibility, the specific competencies that it requires are generally very poorly delineated and also attributed to the “genetic predisposition” of women for care and household related activities. Due to the very peculiar element of mutual trust and dependency between the employer and employee, a number of “soft skills” seem to be required, which are often difficult to assess and qualify. These include discretion, sensitiveness, capacity to take independent initiatives as well as the very special ability to deal with family members without challenging the role and authority of the employer in her role of mother/wife/daughter, etc. The next chapter will give an insight on how the nature of domestic work has significantly

<sup>19</sup> Magdalena Diaz Gorfinkel, “The Situation of migrant and non-migrant domestic workers in Latin America and ILO’s work in the region”, (ILO, Geneva), unpublished paper.

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changed in the past decades in the European context, increasingly including the care of children, elderly and disabled among the specific tasks assigned to domestic workers. This has been accompanied by a growing demand for more skilled and experienced people to perform these tasks. Nevertheless, these competencies are greatly undervalued and mostly unrecognized, especially in the case of migrant domestic workers whose qualification and diplomas are very often not recognized by the host society. The de-skilling phenomenon, common among migrant domestic workers, has important repercussions on the host as well as on the origin countries and will be therefore further analyzed in the next chapter.

## **2. Socio economic factors affecting domestic labour demand**

Many are the interrelated factors determining the size and relative relevance of domestic work within national economies. The reasons and implications of this raising demand are complex, multifaceted, of an economic, social and cultural nature, and cannot be analyzed without putting the issue in the larger perspective of gender dynamics within the European labour markets.

### **2.1 Population ageing and changing household structures**

As a consequence of low fertility rates, the European population is projected to decline significantly over the next decades, with an increasingly aging structure and a particularly pronounced decline and aging of the working age population. By 2030, Europe will experience one of the highest old age dependency ratios.<sup>20</sup> This puts serious challenges to the European care provision regimes.<sup>21</sup> According to EU sources, Europe could have a population of “very elderly persons (80+) of nearly 34.7 million people by 2030, compared with the 18.8 million at present. The number of people living alone will also increase consequently, especially women.

Especially in Southern Europe, recent aging demographic trends are accompanied by significant changes of household and family structures, characterized by an increase of single headed households and by the weakening of mutual family and community support networks. As the EU Green Paper on demographic change points out, families (and women within families) will not be able to face this caring challenge alone.

### **2.2 Female participation in the labour market**

#### **Box 3. Massive Labour Market Female Participation in EU countries since the 70'ies**

“The female labour force continues to be the engine of employment growth in Europe. Since the launch of the Lisbon Strategy in 2000, 6 of the 8 million jobs created in the EU have been taken by women. In 2005, the rate of female employment rose for the 12<sup>th</sup> consecutive year, to stand at 56.3%, i.e. 2.7 points above its 2000 level, compared with a 0.1 point rise in the rate of male employment. If this favourable trend continues, the Lisbon objective of 60% female employment by 2010 will be attained.

Source: Report on Equality between Women and Men, 2007 European Commission, Directorate-General for Employment, Social Affairs and Equal Opportunities, p. 19.

<sup>20</sup> The dependency ratio is defined as the age group 65+ and as a share of age group 15-64

<sup>21</sup> For an overview on the European demographic trends, see the Green Paper “Confronting demographic change: a new solidarity between the generations”, Communication from the Commission. Brussels 16.3.2005, COM(2005)94 final

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Since the questioning of the traditional division of labour came to the forefront of the European debate in the late 70s, most EU countries have experienced a massive increase of female participation into the labour market. This is an objective that ranks high in the political agenda of the EU and its Member States as a matter of human rights' principles and as a practical way, among others, to compensate for the forecast decline of the labour force.<sup>22</sup>

Equality of opportunities and treatment in the labour market has been on the policy agenda of the European Union since its inception and are principles enshrined in the "*Treaty establishing the European Economic Community (1957)*"<sup>23</sup>. More recently, recognizing gender equality in the world of work as a key factor for social and economic development, regional and national policy and regulatory measures have been put in place to promote the employment of women and guarantee a more balanced combination of their professional and private lives. A number of recent steps in this direction should be noted at EU level such as, the adoption of important documents on gender equality in employment, the June 2006 Directive on Equal Treatment<sup>24</sup>, which followed the European Commission adoption, in May 2006, a Roadmap for Equality between Women and Men covering the period from 2006 to 2010.

As a result of these and other proactive measures and political will at national and regional level, significant changes of the labour market structure took place over the past decades. According to EU sources the gap in employment rates between women and men was reduced by 2.6 point between 2000 and 2005. Yet, many European countries are still quite far from reaching the Lisbon target of raising the female participation rate above 60 per cent by 2010.

In addition, recent reports on gender equality at European level in fact, still clearly point out at persisting patterns of labour market vertical and horizontal segregation, significant discrimination in employment access and treatment, important significant differences in pay for work of equal value (pay gaps) and often increasing difficulties in conciliating family and work responsibilities for women, as qualitative research on the use of time tends to highlight (see table below).

### **2.3 Reconciliation of family-work responsibilities**

As mentioned above, this massive entry of European women into the paid workforce has not been accompanied by a corresponding, more equal redistribution of household work among the sexes. The table reported below clearly shows the persisting differences in the use of time between women and men, especially with respect to the time dedicated to domestic work, therefore generally leaving less free time to women as compared to men.

Disparities among sexes continue to persist and even increase both in the public and private spheres and women face great difficulties in reconciling their professional and family responsibilities. The EU report on equality between women and men (2005) recognises this, reporting an employment gender gap of 15.8 per cent and a considerably

<sup>22</sup> See the women emancipation policies 2008-2011 presented by the Dutch cabinet as described in: Van Walsum, "The changing legal context of migrant domestic workers" paper presented at the conference "New migration dynamics: Regular and irregular activities on the European labour market" Nice, France, 6-8 December 2007

<sup>23</sup> There are three legal bases in the EC Treaty for EU legislation on equal treatment of men and women: Article 141(3) in matters of employment and occupation; Article 13(1) outside of the employment field; and Article 137 in the promotion of employment, improved living and working conditions. Full text of the EC treaty: <http://eur-lex.europa.eu/en/treaties/index.htm#founding>

<sup>24</sup> See Directive 2006/54/EC, simplifying existing legislation on equal treatment as regards to employment.

high share of female participation in part time work<sup>25</sup> especially for women with young children. Confirming the goal of full employment, the European Council agreed at the Barcelona 2002 Summit that Member States should remove disincentives to female labour force participation and should aim at providing childcare by 2010 to at least 90 per cent of children between three years old and the mandatory school age and at least 33 per cent of children below three years of age.<sup>26</sup> Yet, even these relatively modest targets, which in any case would be far from satisfying the actual demand for childcare services, are currently still largely unattended: only five EU states reached this objective in 2007.

Table 2. Time use structure of women and men aged 20 to 74

Women	Hours and minutes per day														
	BE	DE	EE	ES	FR	IT	LV	LT	HU	PL	SI	FI	SE	UK	NO
Gainful work, study	2:07	2:05	2:33	2:26	2:31	2:06	3:41	3:41	2:32	2:29	2:59	2:49	3:12	2:33	2:53
Domestic work	4:32	4:11	5:02	4:55	4:30	5:20	3:55	4:29	4:58	4:45	4:58	3:55	3:42	4:15	3:47
Travel	1:19	1:19	1:06	1:05	0:54	1:14	1:20	1:04	0:51	1:06	1:02	1:07	1:23	1:25	1:11
Sleep	9:20	9:10	9:35	9:32	9:55	9:10	9:44	9:35	9:42	9:35	9:24	9:32	9:11	9:27	9:10
Meals, personal care	2:43	2:43	2:08	2:33	3:02	2:53	2:10	2:22	2:19	2:29	2:08	2:06	2:28	2:16	2:08
Free time	5:22	5:52	5:28	5:17	4:46	5:08	4:48	4:50	5:29	5:25	5:34	6:08	5:24	5:32	6:03
<b>Total</b>	<b>24</b>	<b>24</b>	<b>24</b>	<b>24</b>	<b>24</b>	<b>24</b>	<b>24</b>	<b>24</b>	<b>24</b>	<b>24</b>	<b>24</b>	<b>24</b>	<b>24</b>	<b>24</b>	<b>24</b>

Men	Hours and minutes per day														
	BE	DE	EE	ES	FR	IT	LV	LT	HU	PL	SI	FI	SE	UK	NO
Gainful work, study	3:30	3:35	3:40	4:30	4:03	4:26	5:00	4:55	3:46	4:15	4:07	4:01	4:25	4:18	4:16
Domestic work	2:38	2:21	2:48	1:37	2:22	1:35	1:50	2:09	2:40	2:22	2:40	2:16	2:29	2:18	2:22
Travel	1:35	1:27	1:17	1:10	1:03	1:35	1:28	1:13	1:03	1:13	1:09	1:12	1:30	1:30	1:20
Sleep	8:15	8:12	8:32	8:30	8:45	8:17	8:35	8:25	8:31	8:21	8:17	8:22	8:01	8:18	7:57
Meals, personal care	2:40	2:33	2:15	2:35	3:01	2:59	2:10	2:25	2:31	2:23	2:13	2:01	2:11	2:04	2:02
Free time	5:22	5:52	5:28	5:17	4:48	5:08	4:48	4:50	5:29	5:25	5:34	6:08	5:24	5:32	6:03
<b>Total</b>	<b>24</b>	<b>24</b>	<b>24</b>	<b>24</b>	<b>24</b>	<b>24</b>	<b>24</b>	<b>24</b>	<b>24</b>	<b>24</b>	<b>24</b>	<b>24</b>	<b>24</b>	<b>24</b>	<b>24</b>

Source: EUROSTAT 2006 "How is the time of Women and men distributed in Europe", Statistics in Focus, Population and social conditions, EUROSTAT - 4/2006

Availability of childcare services together with other family friendly policies such as parental leave, flexible working time arrangements and financial allowances clearly impact both the rate of women's participation in paid work, and the extent to which they recur to domestic workers as a strategy to balance private and professional responsibilities.

<sup>25</sup> 30,5% women workers are employed on a part time basis while only 6,6% of men: See "Report on equality between women and men, 2007" European Commission, DG for Employment, Social Affairs and Equal Opportunities.

<sup>26</sup> EU Expert Group on Gender, Social Inclusion and Employment (EGGSIE), "Reconciliation of work and private life. A comparative review of thirty European countries". European Commission, Directorate-General for Employment, Social Affairs and Equal Opportunities, September 2005

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There seems to be a certain dichotomy between policy approaches to the issue. On the one hand the EU is strongly advocating for increased women's participation in the labour market as a way, among others, to ensure the sustainability of the social protection systems threatened by demographic change. On the other hand, at the national level, progressive cuts in social expenditure and in provision of social services, especially for pre-school aged children and elderly people, have - with significant sub-regional and national differences - de facto reduced the public coverage of care services and undermined some of the funding principles of the traditional Western European welfare states. This trend is likely to be persisting or aggravated due to the current 2008 financial crisis. A growing market of private enterprises and individual workers is, therefore, been picking up the demand for these services.

As a result of the combination of the above mentioned factors, namely the progressive insertion of EU women into the labour market, the growing caring needs of an aging population, the changing structure of family and household structures, the persistence of gender roles and responsibilities within household and society and the insufficient availability of domestic services, women's time hitherto dedicated to care and household related activities has therefore considerably squeezed.

Therefore, in many European countries, "a different kind of redistribution of domestic work has occurred, namely outsourcing the work to another woman", mostly of another social and ethnic background. Demand for "low skilled" and low status jobs in this sector are, therefore, very likely to increase as this demand cannot be exported or outsourced to countries where labour is cheaper.<sup>27</sup>

It becomes clear that the growing insertion of native born women into the European labour force has been undeniably accompanied by an increased female burden and therefore facilitated by an increasing participation of migrant women as domestic and care workers. In spite of the scarce acknowledgement of this phenomenon, migrant women often de facto replace national women in their traditional care and domestic roles (substituting the decreasing institutional and family support). Yet, migrant women seem to be mostly excluded or marginalized from the European policy agendas on gender equality.

## **2.4 Availability of flexible, low cost, female labour force**

In addition to the factors influencing the demand for domestic workers in European countries, there is another element, which largely determines the size and relevance of the sector: the availability of a flexible, relatively low cost labour force, mainly migrant women, to perform these tasks. Socio-economic, as well as gender inequalities, are some of the reasons pushing more and more women to leave their families behind in search for employment opportunities abroad. The main characteristics of this labour force will be analyzed in the next section, but it is important to highlight that economic inequalities, family responsibilities back home, lack of information and of network support, as well as the perception of temporariness of the migration experience, are all factors that influence in many ways the availability and flexibility of migrant women to accept working often below their level of qualification, with difficult working conditions. They represent a flexible and available working force which become, therefore, vulnerable to exploitation and abuse.

It is within this changing social and economic context that the regulatory role of the State might be of major importance. Labour market and migration regulations at national

<sup>27</sup> Alessio Cangiano: "Briefing note for the hearing on economic migrant workers", presented to the European Parliament's Committee on Employment and Social Affairs, IPOL/A/EMPL/NT/2007-15

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level are, therefore, of great relevance as they shape the socio-economic context, in which domestic work is taking place and set the conditions that limit the forms it can take.

European countries have very different welfare, care and migration regimes and their policy approaches -codified by their normative frameworks- influence differently how these interact among each other. Similarly, domestic work is not regulated equally across Europe. In some cases, it falls under general labour law. In other cases, it is regulated under specific normative regimes. The demand for foreign labour within this sector is also dealt with in very different ways. For example, while some countries have adopted specific regulations to allow recruitment of migrants in this sector (see Italy and Spain), others do not contemplate this possibility.

Welfare regimes are also greatly heterogeneous across Europe. While certain countries, mostly Nordic countries, opted for the provision of extensive care services, others have severely cut back on their public provision. These policies have led to the privatization of the sector, as well as the increasing of individual informal arrangements. In some cases, States provide subsidies to individuals and families to support them to afford private care services.

### **3. Normative frameworks**

International and regional normative frameworks covering labour and migration issues are a useful reference to address the complex issue of migrant domestic work at a national level. Far from being exhaustive, the following section will provide a quick overview of the range of relevant international, regional and national regulations affecting the situation of domestic workers, and in particular of migrant domestic workers in a selected number of European States.

#### ***3.1 International and regional instruments relevant to migrant domestic work***

The ILO Governing Body, in its 31<sup>st</sup> session of March 2008, has agreed to include “Decent work for domestic workers” (Standard setting) in the agenda of the 99<sup>th</sup> Session (2010) of the International Labour Conference. This is a major step forward which human and labour rights activists have been asking for many decades. In 1964, the International Labour Conference (ILC), recognized the need to guarantee domestic workers decent working and living conditions, and adopted a resolution which, among others, invited the Governing Body to “consider [...]placing on the agenda of an early session of the Conference, the question of condition of employment of domestic workers with a view to the adoption of an international instrument”.<sup>28</sup>

At present there is still is no international or regional instrument that deals specifically with domestic work, for which the Governing Body decision is of paramount importance.

For all the reasons mentioned in the previous paragraphs, domestic work is not only systematically excluded by most national labour legislation, but is one of the less regulated sectors under international labour law. Many ILO conventions are either silent on the

<sup>28</sup> ILO, Record of proceedings, ILC 49<sup>th</sup> Session, 1965, Appendix XII: Resolution adopted by the conference, pp. 693-694

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subject or contain flexibility clauses that allow for discrimination measures against domestic workers.”

Yet, the specific concerns of migrant domestic workers could be addressed from many different angles and be dealt with by a wide range of international instruments. So far, domestic workers’ labour rights have been mostly protected under the eight ILO ‘core conventions’<sup>29</sup> covering the fundamental principles and rights at work: freedom of association and the effective recognition of the right to collective bargaining; the elimination of all forms of forced or compulsory labour; the effective abolition of child labour; and the elimination of discrimination in respect of employment and occupation. These principles are also covered by the ILO’s Declaration on Fundamental Principles and Rights at Work (1998), which is applicable to all categories of workers, irrespective of whether or not the State has ratified the corresponding conventions. The Preamble of the Declaration calls for special attention and action to address the concerns of “persons with special needs, particularly the unemployed and migrant workers”.

Even if not expressly mentioning domestic workers, many important ILO conventions<sup>30</sup> are relevant to domestic workers. They cover a wide range of labour rights in relation, among others, to maternity protection, night work, protection of wages, part time work, holiday with pay, social security benefits, employment promotion and protection against unemployment, conciliation of work and family responsibilities, etc.

Given their general application, all ILO conventions cover all workers, irrespective of their nationality, unless they specify otherwise. The Committee of Experts on the Application of Conventions and Recommendations has, therefore, specifically included the concerns of migrant workers among the issues to be monitored in relation to the implementation of international labour standards.

Some of the concerns faced by migrant domestic workers are specifically dealt with by the ILO instruments on labour migration, namely the Migration for Employment Convention (Revised), 1949 (No. 97), the Migrant Workers (Supplementary Provision) Convention, 1975 (No. 143) and their accompanying recommendations. Convention No. 97 introduced the principle of equality of treatment between regular migrant workers and national workers with respect to hours of work, rest period and holidays. It broadly aims at protecting regular migrant workers from discrimination and exploitation. Convention No. 143 addresses the issue of control of migration flows, including clandestine migration and illegal employment of migrants. It also widens the scope of equality between migrant workers by extending it from equality of treatment to equality of opportunities. Most importantly, it clearly highlights the obligation to respect the basic human rights of all migrants, irrespective of their legal status in the country of destination.<sup>31</sup>

The UN International Convention for the Protection of the Rights of all Migrant Workers and members of their families (MWC) 1990 elaborates further on the rights of workers in an irregular status, calling for the adoption of all appropriate measures to ensure

<sup>29</sup> Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87); Right to Organise and Collective Bargaining Convention, 1949 (No. 98); Forced Labour Convention, 1930 (No. 29); Abolition of Forced Labour Convention, 1957 (No. 105); Minimum Age Convention, 1973 (No. 138); Worst Forms of Child Labour Convention, 1999 (No. 182); Equal Remuneration Convention, 1951 (No. 100); Discrimination (Employment and Occupation) Convention, 1958 (No. 111).

<sup>30</sup> For a detailed overview of the existing ILO work relevant to domestic workers, and of the ILO historical engagement with the subject, see Asha D’Sousa, “Domestic Work, better jobs, better care. A review of ILO policy and programmes” ILO, unpublished document, 2008.

<sup>31</sup> For an overview of relevant ILO and UN Conventions on labour migration, see “Labour Migration Policy and Management. Training modules”, ILO, Bangkok, 2004.

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that migrant workers are not deprived of any rights derived from the principle of equality of treatment by reasons of any irregularity in their stay or their employment. It also states that loss of employment shall not lead to irregular status.

More recently, the ILO Multilateral Framework on Labour Migration, endorsed by the Governing Body in March 2006 has specifically dealt with the special needs of migrant domestic workers. This document is of a non binding nature. Yet, it is a unique, negotiated, tool to guide ILO member states toward the adoption and implementation of effective policies and programmes in the area of labour migration. The Multilateral Framework includes the following principles:

Principle 9.8 – “adopting measures to ensure that national labour legislation and social laws and regulations cover all male and female migrant workers including domestic workers and other vulnerable groups....,” and

Principle 11.2 – “intensifying measures aimed at detecting and identifying abusive practices against migrant workers, including physical and sexual harassment or violence, restriction of movement, debt bondage, forced labour, withholding, underpayment or delayed payment of wages and benefits, retention of passports or identity or travel documents and threat of denunciation to authorities, particularly in those sectors that are outside the usual avenues of regulation and protection such as domestic work.”

Similarly, no specific instrument exists to regulate the subject at the European regional level. Again, even at the European level, only timid, yet important initiatives toward a regulatory framework have been taken, mostly thanks to the tenacious efforts of trade unions and civil society movements, and unfortunately with sporadic institutional support.

In the year 2000, for example, the European Parliament adopted an interesting and important report and resolution on the need to regulate domestic help in the informal sector.<sup>32</sup> The European Parliament recognized as matters of concern the absence of a definition of ‘domestic helps’ as well as “increasing demand for domestic help as a result of changes in family circumstance, work circumstances, the way time is spent and the interests of both men and women”.<sup>33</sup> Consequently, among other things, the resolution calls for domestic work to be defined and recognized as an occupation in its own right, to improve the image and the status of domestic workers. It also includes specific recommendations to Member States and the EU to provide these workers with adequate protection, including the adoption of a clear definition of the tasks to be performed and the amount of maximum hours to be worked, as well as “specific and comprehensive social security cover for person pursuing this occupation”.

Finally the following provisions are particularly important to migrant domestic workers (see annexes for an integral version of the resolution):

*“14. Recommends that specialized reception centres be set up for female migrant workers to provide the psychological and psychiatric help required by migrant women who have suffered mental or physical or sexual abuse and any assistance needed to draw up applications to regularize their situation if they have temporary residence permits, as well as help with legal action against persons who have exposed such women to sexual and psychological oppression;*

<sup>32</sup> European parliament “Report on regulating domestic help in the informal sector” 17 October 2000, A5-0310/2000

<sup>33</sup> Ibid.

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15. Also calls for such reception centres to distribute information leaflets to provide them with all the information and addresses they require in relation to their residence in the Member State;

16. Considers that, in the context of recognizing domestic work as an occupation, female migrant workers should be eligible for regular work permits.”

Unfortunately, so far no follow up has been given to this resolution in spite of the important trade union and civil society advocacy and lobby efforts to bring the subject upfront in the European agenda. Most European countries hardly recognise migrant domestic work presence in their respective territories, the existing high demand for their services and their positive contribution to the economic welfare of the societies. The increasingly restrictive immigration policies rarely foresee the possibility of issuing work permits for the purpose of domestic workers. A common consequence of this blind approach is that no legal channel for entrance is available for these women who are therefore pushed into irregular migration and often employed under unfair or exploitative conditions.

Finally, as earlier stated, while this report does not cover the issue of human trafficking for the purpose of labour exploitation in the domestic sector, the gravity and importance of this phenomenon in European countries should not be underestimated. Human trafficking and modern forms of slavery or domestic servitude are generally addressed, from a legal perspective, under specifically designed criminal law. European countries' legislation on this subject matter is increasingly sophisticated and greater attention is paid to these extremes forms of labour exploitation. The Council of Europe recommendation 1663 (2004) on “domestic slavery: servitude, au pairs and mail-order brides” is an example of European action on this subject. The jurisprudence of the European Court on Human Right on a number of important cases of abuse of irregular migrant domestic workers is also of great relevance for the protection of the most serious cases of abuse, including victims of trafficking. Yet, cases of trafficking into exploitative forms of domestic work are difficult to uncover and bring to justice.

### **3.2 A short overview of selected European legislation<sup>34</sup>**

As mentioned above, European countries' lack a common approach to the subject and the specificity of the employment relationship in this area of work are reflected by the various ways domestic work is regulated under national legislations. While generally specifying that the work performed has to be of a *domestic nature*, European countries legal definitions differ mostly with regard to the specific *tasks* or *activities* domestic work can entail. Some countries, for example, explicitly distinguish between domestic workers and care-givers, while some others regulate these two categories under the same provisions. The ILO conducted in 2003 a review of the labour legislation affecting the situation of domestic workers covering 65 countries, including ten European countries. This review constitutes a unique attempt to provide a general overview on how the subject is currently regulated by national laws. The information included in this chapter largely, but not exclusively, draws from the findings of this research in terms on how the national legislations of the reviewed countries deals with the labour rights of domestic workers. Yet, this information should be extended to other countries, updated and include a thorough revision of other kinds of relevant legislation such as, migration law for the

<sup>34</sup> This chapter draws most, but not all, its information from “Domestic work, conditions of work and employment: A legal perspective” José Maria Ramirez-Machado, ILO, Conditions of Work and Employment Series No. 7, 2003

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impact it has on the working conditions of a large share of the domestic workforce in this sector.

A 2005 research commissioned by the European Trade Union Institute (ETUI-REHS) underlined that “domestic workers in EU countries today are often excluded from the law, or have only special, lower protection. Sometimes the laws are simply silent on the topic”<sup>35</sup>. In some cases, countries have opted to cover the subject by enacting specific laws regulating domestic work. This is the case for example of Austria, Denmark, Spain, Italy, Finland, Portugal and Sweden. In other cases, specific chapters, titles or sections of general labour law refer to domestic workers as in the case of Belgium, the Netherlands and France, just to mention some cases. In both instances, specific provisions on domestic work do not necessarily translate into protective provisions for the worker, especially if they are undocumented migrants. Exclusion clauses and derogations from general provisions covering the rest of the labour force to the disadvantage of domestic workers are common to many national regulatory regimes.

In some other cases, collective agreements accompany the specific regulation on this matter and might distinguish between different categories of workers in the same area. In France and Italy, for example, collective agreements are in force since 1999 and 1974 respectively. Collective agreements also exist in Germany and Belgium. In Ireland, care assistants and home helpers are covered by separate agreements negotiated by their unions.<sup>36</sup> As established by the Irish “Ten year Framework Social Partnership Agreement 2006 –2015”, the Labour Relation Commission, in consultation with ICTU and IBEC, has developed a code of practice to set out the current employment rights and protections for persons employed in other people’s homes.

The new Italian national collective agreement specifically defines different categories of domestic and care workers, as noted in box 4.

Collective agreements, therefore, generally regulate the subjects in greater details and usually set higher standards of protection for the worker than the general labour law. Yet, comparison with collective agreements governing other sectors might be an enlightening exercise as it might show that the conditions set for domestic workers are, in fact, lower than those collectively agreed for other sectors. The relative little representation that domestic workers have even within Trade Unions and the scarce presence of migrant workers among their members, might be one of the reasons why Trade Unions still struggle to get this issue high on the policy agenda and, therefore, improve their negotiation power. The absence, in many countries, of a suitable counterpart for collective bargaining, as employers of domestic workers are often not organized, is another factor that makes collective bargaining difficult.

<sup>35</sup> CES-ETUC: “Out of the Shadows Organising and protecting domestic workers in Europe: the role of trade unions” Brussels, 14-15 April 2005.

<sup>36</sup> “Home and Workplaces, the rights of domestic workers”, ICTU, Dublin, Ireland, July 2005. <http://www.ictu.ie/html/publications/pubcon.html>

Box 4.

Classification of domestic work categories and corresponding minimum wages under the Italian National Collective Agreement 2007-2011

**Level A - Minimum wage: € 550**

Domestic workers with less than 12 months of professional experience, not in charge of personal caring, fall under this level. He/she carries out household related tasks, at a level of labour insertion and early professional training. At the fulfillment of twelve months of seniority, he/she shall fall under level B level with the qualification of "generic multifunctional collaborator". For example: persons assigned exclusively to cleaning tasks.

**Level A superior - Minimum wage: € 650**

Profiles: a) Accompanying personnel: He/she carries out exclusively duties of accompanying self-sufficient persons, without providing any professional service; b) Babysitter. She/he carries out occasional and/or non-continuous task of vigilance of children in the absence of parents, with the exclusion of any specific caring task.

**Level B – Minimum wage: € 700**

Domestic workers who have the necessary experience and specific competencies – carry out the assigned duties, even generic in nature, fall under this level. Profiles: Generic multifunctional collaborator. She/he carries out the tasks related to the normal course of family life, completing, also jointly, duties such as cleaning and housekeeping, kitchen or laundry responsible, caring for domestic animals, and any other tasks within this level of competence.

**Level B superior – Minimum wage € 750**

Profile: Assistant to self-sufficient persons. He/she carries out duties of personal care for self-sufficient / assisted (the elderly or children), including, if requested, activities connected to the feeding of the assisted and to the cleaning needs of the house where the assisted lives.

**Level C – Minimum wage € 800**

Domestic workers who, in possession of specific basic theoretical and technical knowledge related to the assigned tasks, operate with total autonomy and responsibility fall under this level. Profile: Cook. She/he carries out assignments related to the preparation of meals and connected tasks, including the supply of raw materials.

**Level C superior – Minimum wage € 850**

Profile: Assistant to not self-sufficient persons (without professional qualification). She/he carries out duties of personal care to not self-sufficient persons, including, if requested, the activities connected to feeding of the assisted (the elderly or children) and the cleaning of the house where the assisted lives.

**Level D – Minimum wage € 1000 + € 150 of indemnity**

Domestic workers who are in possession of the necessary professional requirements and who cover specific positions characterized by responsibility, decisional autonomy and/or coordination fall under this level.

**Level C superior – Minimum wage € 1050 + € 150 of indemnity**

Profiles: a) Assistant to not self-sufficient persons (professionally qualified). She/he carries out duties of personal care to none self-sufficient persons, including, if requested, the activities connected to feeding of the assisted and the cleaning needs of the house where the assisted lives; b) House director. She/he carries out management and coordination tasks related to all the housekeeping needs.

Source: Author's translation and synthesis of: "Contratto Collettivo Nazionale di Lavoro sulla Disciplina del Rapporto di Lavoro Domestico" 13 febbraio 2007 Decorrenza 1° marzo 1007 – Scadenza 28 febbraio 2011

The "specificity" attributed to domestic employment is linked to all the "gendered" factors described above, as well as to the private character of the workplace, which is historically considered the realm of domesticity and privacy, and therefore to be excluded from any type of state interference or regulation. For these social and historical reasons, in

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general terms, the employment relationship in domestic work is considered “atypical” and therefore is subject to special provisions. Whether or not domestic workers are included or specifically excluded from the scope of general labour laws, they are usually granted a lower protection than other categories of workers. While there are different degrees of legislative protection of this category of workers across Europe, European legislations still largely reflect these gendered perceptions and generally insufficiently regulate the subject or scarcely enforce the existing regulations, leaving space for informality, exploitation and abuse.

Evidence shows the existence of ample legislative vacuums on the subject both at the international and national level. National legislations covering domestic work generally reflect this specificity with regards, among others to the following issues.

### 3.2.1 Employment contract

As in any other employment relationship, the rights and obligations of the parties involved should be normally governed by an employment contract. The employment contract should establish the legally binding basis for the respect of mutually agreed aspects of the employment relation such as: the tasks to be performed, the type of employment (part time-full time, live-in/live-out), the hours of work and rest, wages and benefits, probationary period and termination of employment, leave periods, etc.

Only a few European countries specifically require a written contract of employment for domestic workers. This is the case, for example, of Austria, Finland, Ireland and France. In other cases, the legal requirement of a written contract might apply only under certain circumstances for instance, if one of the two parties requests so (Sweden), or if the contract is concluded for a specific period of time (Belgium and Denmark). In Spain, a new regulation is being discussed among social partners that would introduce significant changes for domestic workers. This proposal specifically includes the obligation to have a written contract of indefinite duration, which is not currently the case.

In Italy, the new National Collective Agreement on domestic workers valid from 1 March 2007 to 28 February 2011, introduces important changes, the most relevant being a detailed reclassification of domestic work into four levels with two retributive categories each (see box above), and the introduction of new employment arrangements such as, the job sharing and the part time work for live-in workers. The agreement requires the signature by the two parties of a written contract of employment, or a letter of appointment. (see box 5). Model contracts are made publicly available to employers and workers through various institutional channels.

Box 5

**Provisions on the written contract included in the Italian National Collective Agreement 2007-2011**

The agreement imposes the signature of a written contract that must include the following detailed conditions of employment.

Starting and (eventual) termination dates;

- Duration of the trial period, which is linked to the category of domestic worker and ranges from 8 days for cleaning personnel without professional experience to 30 days for care givers assisting not self-sufficient people;
- The category to which the worker belongs and the seniority matured by the worker in that category;
- The type of employment (live-in or live-out);
- The working hours;
- The selected compulsory day of rest and the other optional half day;
- The agreed leave period;
- The provision of temporary movements/travels for holiday or other family period;
- Possibly, the required job uniform, which must be provided by the employer;
- An indication of the space allocated to the employee to keep her/his personal belongings;
- The agreed salary;
- Any additional conditions on accommodation and food.

Source: Author's translation and synthesis of: "Contratto Collettivo Nazionale di Lavoro sulla Disciplina del Rapporto di Lavoro Domestico 13 febbraio 2007 Decorrenza 1° marzo 2007 - Scadenza 28 febbraio 2011.

### 3.2.2 Wages

In some cases, the legislation refers to the national minimum wage as applicable to the domestic sector. This is the case, for example, of Ireland, Spain and the United Kingdom. In France, the law on domestic workers fixes the minimum wage applicable to this sector.

In other cases, such as in France, Finland and Italy, the minimum wage is fixed by a collective agreement. In the latter, salary differences are generally established on the basis of a specific category of domestic work (as in Italy) and/or on the length of service (as in France<sup>37</sup>). In the case salaries are fixed through collective agreements, it would be interesting to compare minimum wages in this sector, national minimum wages, where these are foreseen, and minimum wages agreed for other categories of workers with comparable level of skills and competencies. A quick look at available statistics seems to suggest that minimum salaries of domestic workers tend to stand within the lowest salary

<sup>37</sup> [Convention collective nationale des salariés du particulier employeur. Etendue par arrêté du 2 mars 2000 JORF 11 mars 2000.](#) Brochure n° 3180, Salariés du particulier employeur, Convention collective nationale du 24 novembre 1999

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range of all occupational categories<sup>38</sup>, but extensive data analysis should be subject to further study.

Another very important issue that is treated differently in European countries is the question of in-kind benefits. In Spain, for example, the parties can agree on a percentage that in kind benefits for food and accommodation may represent within the total salary, setting the maximum limit to 45 per cent. The currently discussed legislation proposal on domestic work eliminates payment in kind. In France, the minimum amount for board and lodging is fixed by the collective agreement<sup>39</sup>.

Some European laws (Austria, Finland, Portugal, Italy and France among others) specifically deal with in kind payments during the holiday period stating that employers shall provide to live-in worker free board and lodging, or equivalent compensation in cash, during rest days of holidays. Meanwhile, other States are silent on the issue.

The issue of overtime is also regulated and calculated more or less specifically under European legislation. Some countries fix the specific minimum amount for overtime work, while others leave space for negotiation on this subject.

### 3.2.3 Working time and periods of rest

European national legislations, usually, explicitly fix both the maximum number of working hours and the minimum number of night rest hours, but they might differ considerably both on how these hours are distributed (some fix a daily maximum, other a weekly one) and on the actual minimum total amount of working hours. In many cases, the maximum number of working hours per week or per day exceeds the limit fixed for other categories of workers. Some countries make a difference between live-in and live-out employees. In Italy, for example, the new collective agreement establishes a daily maximum of ten non-consecutive working hours (up to a maximum of 54 hours per week) for live-in employee and of eight non-consecutive hours (up to a maximum of 40 hours per week) for live-out workers.

Minimum night rest, as well as, daily breaks are also determined differently across Europe. In some countries, these seem to be shorter than those fixed for other categories of workers. In Spain, for example, the general labour law imposes a minimum of 12 hours night break (rest in between working days). Meanwhile, the current legislation fixes this at 10 hours for live-out domestic workers and 8 hours for live-in domestic workers.

Some countries, such as Finland, France, Spain and Belgium, introduce the concept of “hours of readiness for service” during which the worker is expected to be ready for work, even if he or she will not necessarily be called upon. In Spain, this time needs to be mutually agreed among the parties, therefore, in principle excluding the unilateral imposition of “on call” periods by the employer.

Finally, night work is admitted only as an exceptional event under certain European legislations (Denmark, Finland and Italy), which normally provide for the right to compensating rest period the following day or to the right to overtime payment.

<sup>38</sup> In the case of France for example, the Inter-professional minimum gross salary (SMIC) was of EURO 1321.02, for a total of 151.7 hours per month. The minimum salary for domestic workers was agreed by collective agreement, at EURO 1480, for a total of 174 hours per month. Ibidem. 1999.

<sup>39</sup> José María Ramírez-Machado, “Domestic work, conditions of work and employment : A legal perspective”, International Labour Office, Geneva, Conditions of Work and Employment Series No.7 <http://www.ilo.org/public/english/protection/condtrav/pdf/7cws.pdf>

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Weekly and annual rest periods are also key issues that are regulated differently by Western European national laws. Most analyzed legal provisions include a minimum 24 hours weekly rest period, preferably -but not obligatorily- to be taken at least partially on Sunday. In Spain, the domestic worker has the right to 1 full rest day per week, and another 12 hours to be allocated during the week on mutual agreement among the parties. Some legislation, like the Italian Collective Agreement, provide for the right to accumulate annual leave over a period of more than one year, which has relevant implication for migrant domestic workers who can then take longer leaves to go back to their countries of origin. In other cases, the law puts limitations to the number of leave days the worker can enjoy in a consecutive way (15 days in Spain for example, though this provision is currently under revision through the already mentioned proposed legislation).

### 3.2.4 Termination of employment and notice period

Given the “special nature” of this employment relationship, mainly linked to its personalized character, regulations on the termination of employment for domestic workers are often quite different from the rules covering other categories of workers. Rodriguez Machado points out that in the case of dismissal, “given the special character of the household employment relationship, legislation does not normally consider reinstatement, even in the absence of “just cause” for dismissal, as a remedy when the employer loses confidence in the domestic worker and decides to terminate the employment relationship. Thus, the only legal way to protect domestic workers’ rights is through economic compensation, the method of calculation of which is also fixed by law”.<sup>40</sup>

For the same reasons, the period of notice established for domestic workers tends to be shorter than the one fixed for other categories of workers, but it varies considerably among countries ranging from few days to several weeks. It is in some cases (e.g. Italy) linked to the length of service and it might differ for the employer and the worker, the latter usually being shorter.

### 3.2.5 Social security and social protection

National legislation on domestic workers may regulate differently their coverage by social security and social protection benefits, which include issues such as maternity leave and benefits, insurance against sickness and accident, old age pension benefits and unemployment benefits. In certain cases, the legislation provides for different arrangements, depending on the category of the worker. Spain has, for example, a special social security scheme for domestic workers.<sup>41</sup> In the case of Italy, for example, the National Institute for Social Security (INPS) does not pay domestic worker’s sick leave, as it does for other workers. According to the Italian law, this obligation falls on the employer. In other countries, this subject is hardly regulated, especially for those who are employed on a part time or occasional basis, or work for multiple employers. This clearly shows a legislative vacuum which leaves a very large share – in some countries the large majority - of workers unprotected, irrespective of their migration status.

This issue is particularly relevant for part-time domestic workers, who, below a certain number of hours of work in a given period determined by national laws, are either excluded from coverage of social security and social protection regimes, or in other cases become solely responsible of their contribution. In Spain, the current special regulation on domestic workers imposes obligation on the employer to affiliate the employee to social security only when he or she works for more than 19 hours a week. When this number of

<sup>40</sup> Rodriguez Machado, op.cit. p. 59

<sup>41</sup> Régimen Especial de la Seguridad Social del Servicio Doméstico

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hours is carried out in various households, the obligation to pay social security contribution falls on the worker. No social security contribution is requested in all other cases. On the other hand, the actual amount of the contribution to social security is a standard one, not calculated on the number of working hours. For this reason, observers point out that the system might encourage irregular work as it is less interesting for the employer to affiliate their part time employee.

This category of workers is, also, mostly not covered in regard to unemployment benefits. An exception, among others, is the Italian Collective Agreement, that recognizes the right of the worker who was dismissed (not those who left their job by their own choice), unless this was for a “just cause” to receive unemployment benefits. In Spain, the new project of the law, currently being discussed, introduces this right and the similar pension and sickness coverage granted to other categories of workers. It will impose affiliation of domestic workers independently of the number of hours they work per week, introducing a system through which the amount of the contribution will be proportionate to the number of hours worked.

### 3.2.6 Quality of lodging and boarding

Only a few national laws refer to the standard of lodging and boarding to be provided to domestic workers. The French collective agreement<sup>42</sup> is particularly detailed on the quality of the accommodation to be provided which will need to guarantee personal privacy and security, as well as, prove adequate sanitary and hygienic conditions. Similarly, the Italian Collective Agreement specifically mentions the obligation of the employer to provide, in case of live-in arrangements, healthy and sufficient food, a working environment which does not affect the work physical and moral integrity, and an accommodation that guarantees the dignity and privacy of the employee.

## 3.3 Law enforcement

Most European countries labour laws do provide minimum guarantees to domestic workers, even if it is often below the standards fixed for other categories of workers. Nevertheless, its high level of informality is a symptom of existing limitations in the application of the law due to insufficiently effective law enforcement mechanisms.

There are many reasons why law enforcement is particularly difficult with regard to this sector. Mainly, this has to do with the collision between the need to implement control measures to guarantee the rights of domestic workers and the principle of inviolability of the privacy of the employer’s household. While labour inspector’s regulations are normally applicable to domestic workers as well, labour inspectors are usually *de facto* limited in their supervisory functions, as they cannot freely enter in private households. In some countries, labour inspection in private household is subject to a court’s order (France), or to the explicit request of one of the parties or to information on possible labour law violations received by the inspectorate (Sweden and Demark).

These difficulties, of course, have serious consequences on the degree of effectiveness of law enforcement and clearly contribute to the high incidence of informality in the sector. On the other hand, the possibility in many countries to establish an employment relationship through an oral contract further complicates the effective role of law enforcement mechanisms.

<sup>42</sup> Convention collective nationale des salariés du particulier employeur du 24 novembre 1999, étendue par arrêté ministériel du 2 mars 2000, Journal officiel du 11 mars 2000.

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## 4. Section conclusions

All the factors mentioned above make domestic work one of the least protected sectors, both by law and by practice, in many European countries, for a variety of gendered social, economic and cultural factors. Yet, it is a sector in expansion, whose relative size and economic weight is expected to continue growing, as a result of the demographic and family structure changes in receiving societies, the progressive female insertion into the labour market and the availability of a low cost female workforce. So far, this sector does not seem to be recognized as a very important decent employment option for thousands of workers across Europe who provides a very significant contribution to European economies.

While an increasing number of native women join every year the European labour market marking, among others, important progresses in the achievement of gender equality across the region, this is still not accompanied by a substantial redistribution of traditional gender roles and responsibilities within the household. Women have rather tended to see their burden increased or to delegate domestic responsibilities to other women, whose work continues to be largely considered of a low value and low status. As critics tend to highlight the achievement of many women in terms of gender equality seems to happen with the support, if not at the expenses of other women, mostly belonging to other national, ethnic, linguistic origin.

Domestic work continues to be excluded from most European labour legislation or treated, as a form of atypical occupation, by separate, often less favourable, legislative provisions. It is characterized by informality of the employment relationship, largely undervalued in economic terms and mostly unprotected by effective enforcement mechanisms. Only timid international and national efforts have been taken to promote the economic and social empowerment of domestic workers, to better protect them from exploitation and abuse and reduce the informality that characterizes many, if not most, of the employment relationships in this sector.

The picture is further complicated when looking to the migrant population whose needs and vulnerabilities are linked to their migration status, and therefore require specific analysis and policy responses.

In the case of migrant workers, employment and migration regimes are intimately linked and gender and ethnicity dynamics mutually reinforcing. Even where national labour legislation guarantees equality of treatment of migrant and national domestic workers, immigration laws might *de facto* have primacy over labour regulations and indirectly void equality and non-discrimination provision of the latter and limit migrant worker's full enjoyment of their rights, indirectly encouraging informal working arrangements.

The following chapter will provide an overview of the situation of migrant domestic workers in Europe, with reference to the situation in some specific countries.

It will start by describing some general trends concerning the increasing participation of women in migration flows towards Western European countries, and their participation in the labour market.

It will then look at the link between migration and employment status for migrant domestic workers and at the impact of different national legislative approaches, especially looking at temporary migration programmes.

Finally, it will describe some of the characteristics of migrant domestic workers and some of the most salient features of their employment experience, especially related to their working conditions, organization and voice.

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## Section 2 - Migrant workers in the domestic sector

### 1. Some facts and figures

It is undisputable that life and work in EU countries can be a positive experience for thousands of migrant women who regularly come in search for a better life for them and their families.

The analysis of this very delicate subject, especially when meant to support the development of adequate policy and regulatory measures, should not rely on anecdotic, often politically charged information, but should identify which normative and policy initiatives aimed at guaranteeing protection of migrant domestic workers are able to produce a positive impact. While certain countries have marked significant steps forward in this direction, preoccupying restrictive measures that might seriously hamper migrant domestic workers' protection of basic human rights are currently under discussion in some EU countries.

This chapter will mainly focus on situations that are potentially conducive to discrimination, exploitation and abuse of migrant domestic workers. Far too many migrant domestic workers have little protection under national legislation or *de facto* live and work outside the reach of legislative protection, in the "shadow" area of irregular migration and irregular employment, where violation of basic human and labour rights is, unfortunately, common practice. The hidden nature of their work still creates more than ample opportunities to evade existing labour and immigration legislation, exposing them to exploitation and abuse. While all domestic workers, national, documented and undocumented migrants, seem to be often subject to abusive working conditions, the latter are more vulnerable to exploitation and abuse. This is, of course, particularly relevant for undocumented migrant workers whose fundamental human rights (including the basic labour standards included in the concept of decent work) must be guaranteed by law irrespective of their migration status. While all domestic workers, national, documented and undocumented migrants, seem to be often subject of abusive working conditions, the latter are the workers who are more vulnerable to exploitation and abuse. On the other hand, even documented migrants are still often subject to discriminatory provisions and practices, in spite of their regular residence in the host country and are *de facto* treated as second-class workers.

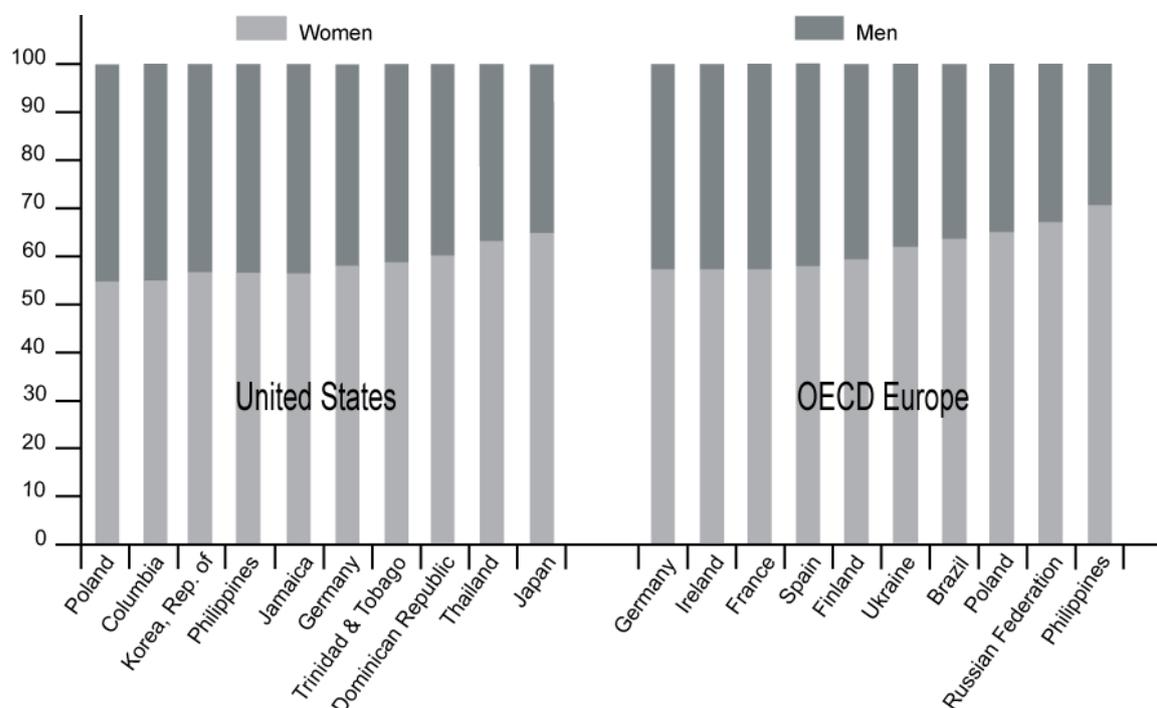
While some temporary limitations to the enjoyment of rights are internationally accepted as part of temporary migration schemes, these in no case can ever restrict the enjoyment to fundamental labour rights. National legislation should, therefore, reduce the duration of such limitations at the minimum and guarantee non discrimination against regular migrant workers, independently from the kind of work permit they hold.

Data on the numbers of female migrants and their share among domestic workers are patchy and often contradictory. Official data are also only referring to migrants who are regularly resident in the host country and therefore largely underestimate the large and often increasing presence of undocumented migrant women in Europe. Yet, some general trends can be identified.

Women represented more than 52 per cent of the total number of international migrants in Europe in the year 2000. Their geographical distribution and country of origin vary significantly across Europe, both because of migration and labour laws in place and because of the predominant cultural and racial stereotypes that are embedded in host societies and employers' preferences, that are partially linked to cultural and language

affinities. The table below provides a general picture of women's presence among migrant workers in Europe.

Figure 2. Gender breakdown of immigrants in OECD Europe and the United States by country of birth. Selected countries of birth: 2004 or latest year available, percentages



Source: OECD (2006), International Migration Outlook, OECD, Paris

In spite of migrant women generally showing a generally lower participation rate in the labour force compared to their male counterparts and female nationals, evidence shows that an increasingly high share of these women find an occupation as a domestic or care worker. The majority of domestic workers in Europe are foreign born. When they are in paid employment, women are in fact more likely to be in the lower segment of the labour market, domestic sector being a clear example of migrant women's overrepresentation.

In Germany, for example, the number of foreign women working as domestic workers rose by nearly 75 per cent between 1993 and 2003. In Spain and Greece, the number of women in this sector is reported to have multiplied by 11 and 6 times respectively over the same period<sup>43</sup>. In France, half of the female immigrant workers<sup>44</sup> and one out of three immigrants employed as low-skilled workers are reported to be in domestic work.<sup>45</sup> The Italian National Social Security Institute (INPS) reports that 73 per cent of the total numbers of domestic workers in 2006 were foreigners, 87.5 per cent of

<sup>43</sup> J-C Dumont and Mario Isoppo, "The participation of immigrant women in the Labour Market: a double handicap despite the progress made", Paper presented at the OECD and European Commission Seminar on "Migrant women and the Labour Market: diversity and challenges", Brussels, 26-27 September 2005, p. 19

<sup>44</sup> INSEE, « Recensement de la population 1999. De plus en plus de femmes immigrées sur les marchés de travail », no. 791- juillet 2001

<sup>45</sup> Fanny Mikol and Chloé Tavan « La mobilité professionnelle des ouvriers et employés immigrés » in Données Sociales – La société française, édition 2006, pp. 351-359

whom were women.<sup>46</sup> In general terms, migrant women are reported to be four times as many as native women in the household sector.

According to EUROSTAT data, some 15 per cent of the total employment of foreign-born women is occupied under the category “personal and protective service workers”.<sup>47</sup> The following table compares the distribution of foreign labour force in domestic service with women nationals in selected European countries, showing a significant increase of foreign women in this sector over the decade 1994-2004, with the exception of the United Kingdom. In spite of a decrease of the relative size of the sector, the foreign domestic workforce still largely outnumbers the national domestic workforce.

Table 3. Employment of women by nationality in the domestic services sector (%)

Country	1994		2004	
	Foreigners	Nationals	Foreigners	Nationals
Spain	27.1	6.9	36.0	4.6
France	14.7	3.5	21.1	3.8
Greece	35.0	1.5	42.4	1.3
Italy	10.3	2.3	27.9	1.6
United Kingdom	3.7	1.1	3.1	0.6

Source: European Community labour Force Survey. Table quoted in L. Oso Casas and J-P Garson, “*The Feminisation of International Migration*”, paper presented at the OECD and European Commission Seminar “Migrant women and the Labour Market: Diversity and Challenges”, Brussels, 26-27 September 2005.

Labour force participation rates for migrant women tend to be higher in Southern European countries, where migrant women are highly represented among domestic workers. These are the same countries where national women’s participation rate in the labour force has rapidly increased over the last decade. This could at least in part confirm the above mentioned correlation between national women’s insertion into the labour market and the outsourcing of care work to migrant domestic workers. This tendency seems to be even higher in big urban centres, where domestic work is often concentrated and where data on female immigrant participation to the labour force could be even higher than the corresponding one for national women. Recent statistics on the situation in Madrid report, for example, that 72 per cent of the female immigrant population is economically active and 61.4 per cent is employed, which is significantly higher than the correspondent data for nationals.<sup>48</sup> Looking at sectoral distribution, domestic work clearly represents the major and sometimes only, employment opportunity for migrant women, especially undocumented.

This data confirms that the absolute number and relative relevance of female migration and the contribution of migrant domestic workers to the host countries’ economies and societies are clearly very different among European countries.

Similarly, female migration flows seem to follow different geographical patterns. In Italy, for example, the so-called “Ukrainisation” of female migration came to light during

<sup>46</sup> INPS, *Lavoratori domestici – Serie storica 2001 -2006*

<sup>47</sup> J-C Dumont and T. Liebig, “Labour market integration of immigrant women: overview and recent trends”, Paper presented at the OECD and European Commission Seminar on “Migrant Women and the Labour Market: Diversity and Challenges”, Brussels, 26-27 September 2005

<sup>48</sup> See statistics reported by the web site of the project “Madrid entre dos orillas”: <http://www.entredosorillas.org/>

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the regularization of 2004, when more than 100,000 working permits were granted to Ukrainian women migrants through the process. In 2006, Ukrainian women were reported to be 21 per cent of the total number of domestic workers officially registered under the social security system, followed by Filipino (15 per cent), Romanian (15 per cent), Ecuadorian, Peruvian and Polish (6 per cent each) women. Recently, Moldavian women also seem to have increased their relative presence in the territory.

In Spain, migration from Latin America accounts for the largest share of women employed in domestic work, mostly Ecuadorian (30 per cent) and Colombian (13 per cent), but the sector also attracts a high number of Romanian (14 per cent) and Moroccan women. In France, female migrant domestic workers come predominantly from Algeria, Morocco and Tunisia. In the United Kingdom there is a large share of Filipino, Indian and Sri Lankan female domestic workers. Meanwhile, many Polish and Czech women commute on a regular basis to work as domestic workers in big German cities.

On the other hand, evidence provided by statistical data on migrant women's participation to this sector should be taken with caution as it provides only a limited picture of the situation. A very large share of women domestic workers is most probably still unaccounted for, due to their irregular migration and employment status.

In some cases, women migrants' work only came to the surface when, due to regularization processes, they were granted a work permit subject to their possession of a regularly registered employment. For example, following the regularization processes in Italy and Spain, migrants in the domestic sector largely outnumbered nationals in official social security records.

Understanding the interrelation between migration and employment regulations is key to the development of suitable comprehensive and coherent policy responses. Clearly, migration regimes directly and indirectly affect migrants' working and living conditions and shape a distinctive pattern of occupational allocation between nationals and non-nationals, as well as, between women and men. The impact of migration laws is of paramount importance for the effective integration of women migrants in the domestic sector, thus contributing to social cohesion.

## **2. Migration regimes and domestic work: the regularity/irregularity spectrum of employment and migration statuses**

Effective and responsible integration of immigrants in the labour market and in society is one of the key factors for success in reaching the Lisbon targets. The gender perspective is to a large extent lacking in integration policies, which hampers the possibilities to fully utilize the potential of immigrant women in the labour market.

Source: European Commission's report: "Report from the Commission to the Council, The European Parliament, The European Economic and Social Committee and the Committee of the Regions on Equality Between Women and Men", 2005

The major contribution of migrant workers to the social cohesion and economic well-being of European receiving countries is, today, largely recognized by EU official documents and increasingly acknowledged by European policy makers. Yet, in spite of the growing evidence on the increasing demand for foreign labour in the domestic sector and the largely documented participation of female irregular migrants, only few European countries currently foresee the possibility to issue work permits for the purpose of domestic work.

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While political debate in many European countries is focusing on temporary migration schemes as a possible way to deal with labour shortages in low skills occupations, domestic work is rarely included in this discussion or is explicitly excluded from the reach of proposed programmes. On the other hand, even when domestic work is included in temporary migration schemes, it is important to remember that these kinds of migration schemes temporarily confine employment to the specific sector, sometimes even to a specific employer, which limit the migrant's movement to other higher-skill jobs and could eventually expose them to possible exploitation. This is particularly relevant for migrant domestic workers, for whom upward labour mobility is especially reduced and the risk of de-skilling is particularly high.

Women enter European countries with very different migration status. This determines whether or not they are allowed to work, *de facto* limiting the range of occupations they can access and, more or less indirectly setting the conditions of their employment.

## **2.1 Temporary working programmes**

In some limited cases, European Governments have set up systems for admissions of migrant domestic workers on temporary working programmes. This is the case of the "quota system" in Italy, where the number of workers admitted is fixed yearly on the basis of an estimate of the actual demand in the sector. Similar systems have been put in place in Spain and Greece. Far from meeting the actual labour demand in the sector, these systems open some regular migration channels into the national labour market for these categories of workers.<sup>49</sup> In the case of the United Kingdom, temporary work permits are currently granted to domestic workers who enter the UK territory accompanying their employer, provided that they have been working for him/her for at least one year before they enter the United Kingdom.<sup>50</sup> Every year 17,000 non-EU resident are granted a domestic workers visa to accompany their employer to the United Kingdom.<sup>51</sup> However, this system's restrictive eligibility requirements (see box no. 12 of Section 3 on the United Kingdom) leave a large share of migrant domestic workers with no regular entry channels.

For some time, Germany introduced a "care worker" recruitment system which allowed immigrants from selected Eastern European countries to work in private households where a need for care could be proven by insurances, on a model similar to the former guest worker system. This system implied the recruitment of immigrant workers directly by the Federal Employment Centre in cooperation with the employment centres of the countries of origin and the issuing of a three-year residence and work permit. This system has been criticized and showed to be relatively unsuccessful. Only a relatively small percentage of care givers were recruited under this scheme. Yet, after a moratorium of two years the system was reintroduced in 2005.<sup>52</sup>

In other cases, such as in the Netherlands and Switzerland, regular employment of non EU workers as domestic workers is *de facto* impossible due to the conditions imposed by law on the recruitment of foreign workers. While the law does not exclude explicitly this possibility, it imposes as a condition that no national or EU worker should be available to fill the position. Given the national unemployment rate, mostly for low skilled workers,

<sup>49</sup> A more detailed overview of these national systems will be provided in the next chapter.

<sup>50</sup> UK Home Office, Border and Immigration Agency, information on domestic workers visa, Eligibility: [www.bia.homeoffice.gov.uk/workingintheuk/domesticworkers/eligibility](http://www.bia.homeoffice.gov.uk/workingintheuk/domesticworkers/eligibility)

<sup>51</sup> See information included in Kalayaan briefing paper: The impact of British Immigration Law on Migrant Domestic Workers", [www.kalayaan.org.uk](http://www.kalayaan.org.uk)

<sup>52</sup> Sabine Hess, unpublished paper, held in Munich 2007

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the Dutch authorities have so far considered this condition as unmet as the unemployed labour force is deemed sufficient to meet demand in the sector.<sup>53</sup> Similar conditions could be found in the Swiss migration system.

Even when specific provisions exist to regulate the entry and temporary employment of immigrant domestic workers, it is important to highlight that temporary working permits are by nature restrictive of the full enjoyment of labour rights, in particular with regards to the possibility to change employer or sector, the enjoyment of specific welfare benefits such as unemployment benefits, and the right to family reunification. The first is particularly relevant as, given the very private and hidden nature of domestic work it makes the worker more vulnerable to exploitation and sometimes more prone to accepting irregular status, where more flexibility is, at least, in theory allowed.

Finally, experts have pointed out that the temporary nature of this work permit, tends to go against the “trust” character of the employment relationship in domestic work, especially when it involves care of children, elderly or disable. Experience shows that the long term investment in a working relationship based on trust might act as a protective measure for the worker, who might therefore prefer an irregular working arrangement with the perspective of a job during a long period of time.

## **2.2 Au-pair programme**

In Western Europe, the “Au-pair programme” has lately expanded. It provides young students (from 18 to 25 years old), that would like to learn a second language, with an opportunity to live and study during a period of a year to a maximum 18 months in a foreign country. It is a programme considered within the student exchange system and if properly respected, gives these students an invaluable experience. In exchange to a maximum of 30 hours of baby-sitting per week, families hosting “au pairs” have the obligation to cover the cost of the students’ health and accident insurance, help them pay at least 25 per cent of their language courses, provide them a weekly stipend of at least 100 euros (in 2008), and an individual room that they can lock. Families are obliged to let au-pairs, usually young women, attend school between 4 to 10 hours a week, are not supposed to request “au-pairs” to take care of more than three children, and should give “au-pairs” the evenings and weekends off. If extra baby-sitting hours are needed, families are supposed to pay “au-pairs” per every extra hour worked respecting the established national rate for baby-sitting services.

On the other hand, “au-pair” students have the obligation to take good care of the children, take them and/or bring them to school or other weekly courses (when the children’s schedule does not interfere with the students’ own school schedule), prepare a light lunch for them, tidy-up the kitchen after utilization, and clean the room and bathroom that the “au-pair” uses.

The “au-pair” programme is not supposed to be considered domestic work. However, in some cases, “au-pair” or “student” work permits are in practice being [ab]used as a way of accessing low cost domestic services. Au-pair students are asked to do the whole cleaning of the house, ironing, gardening, car-washing, and many other tasks that are not supposed to be within their obligations. In addition, they are requested to work more than 30 hours a week, and during the weekends and evenings, without receiving any extra payment for extra hours worked. This situation, clearly, exposes young migrant women to labour exploitation, and even in some cases to sexual and psychological abuse. Alleged abuses of au-pair schemes were brought to the attention of the Dutch authorities in the past

<sup>53</sup> Sarah Van Walsum, *op. cit.*

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few years and the Government, in response, set up a “Help-line” for au-pairs’ complaints.<sup>54</sup> Reports of the use of au-pairs as full time domestic workers are also common in other European countries such as, the United Kingdom and France.

### **2.3 Family reunification and dependent residence permits**

Some women migrants entering through family reunification channels with a dependent residence permits can be also found working in the domestic sector. They enjoy a regular migration status and are usually allowed to work. Yet, many of them can be working irregularly under precarious and often exploitative working conditions. The reasons behind this are fundamentally similar to those of the nationals, such as for example the overly cumbersome administrative procedures for registration of employment and the costs of social security contributions and social protection schemes, which might make regular employment unattractive for both the employer and the employee, especially in case of part time work. On the other hand, some migration-specific factors might play an important role in making regular employment particularly unattractive to migrant workers, such as the perception that, due to the temporary character of the stay they will never actually benefit of social security or pension schemes. It has also been noted that the desire to return home and the objective to save as much as possible during the period abroad might be one of the reasons for regular migrants to work under informal arrangements. On the other hand, this might be a rather illusive objective, as evidence tends to show that irregular migrants are on average less remunerated than their national counterparts. Furthermore, even regular migrants might refrain from complaining against abusive employment conditions for fear that this could affect their migration status.

In most cases, residence permits oblige women to maintain a dependent status for a minimum amount of time. If the main visa holder leaves the country or if the marriage ends in a divorce or separation, the dependent automatically loses the residence status. This might have very serious consequences for women. On the one hand, this notion could encourage irregular extension of their stay, and consequently irregular employment. Meanwhile, it could indirectly affect women’s acceptance of situations of domestic abuse or violence. In response to this concern, the Government of the Netherlands has included domestic violence as a criterion for granting an independent residence permit. Similar provisions are included in the Spanish legislation on domestic violence.

### **2.4 Irregular or undocumented migrants**

In the absence of specific provisions to grant regular entry for this sector and giving the increasing demand for household and care services, domestic work attracts a large share of undocumented migrants throughout Europe. They cross borders irregularly and they remain in the host country beyond the expiration of their regular visa. They are confined to the least protected and more vulnerable sections of the labour market and of society, where working and living conditions can be particularly harsh. The private nature of the workplace and the informal and personal character of the employment relationship often confine them, which in some extreme cases could be defined as a “safe hell”. Hidden from law enforcement authorities, including labour inspectors, they tend, too often, to find themselves excluded from the effective protection of existing labour law and isolated from the support networks of the family and community.

<sup>54</sup> CFMW Research Report on Migrant Domestic Workers (MDWs) in the Netherlands, December 2005.

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In addition, it is clear that residence and employment statuses over time should be looked at as a fluctuating continuum or spectrum between regularity and irregularity rather than as clearly defined and static. Some studies show how in many countries the residence status of migrant domestic workers might change even over short periods of time. For instance, a migrant worker might start with a tourist visa then to a student permit and eventually shift to an au-pair scheme to a fully undocumented resident, all these are realistic strategies to extend their stay. This fluctuating migration status often corresponds to a similarly fluctuating employment status that might take the form of fully informal employment, part time regular work combined with additional informal working hours, or formal full time employment. Even though, conditions of work might significantly vary according to the combination of employment and migration status. Gender and ethnicity often play a role across these two variables, as women tend to suffer from double and/or multiple grounds of discrimination.

Before analysing in more detail migrant domestic workers' working conditions and their main challenges in every day life, this report will try to describe briefly who migrant domestic workers are in today's Europe, in the attempt to challenge some widespread stereotypical perceptions linked to historical and socio-cultural reasons.

### **3. Who are migrant domestic workers in Western Europe? Profile and skills**

The lack of recognition of domestic work as real work, the consequent low value attributed to it and, by extension, to those performing it, is still very much embedded in most Western European societies. Historically, domestic work has attracted some of the poorest, most marginalized, youngest and least educated women, often proceeding from rural areas as a way out of poverty. This perception of the general profile of domestic workers is being transposed to the phenomenon in modern world, with little recognition of how the workforce has evolved over decades, and of the increasing economic and social contribution of domestic workers in the current context.

“Of course I go cleaning – there is not other possibility for a foreigner! For no one! I have searched and searched because I would really like to do something with computers, something I've been missing in my training as a civil engineer, but they always prefer a German to a foreigner.”

Source: RESPECT GERMANY. Flyer on migrant domestic workers, 2007.

At the same time, public opinion often perceives migrant workers as a challenge to native workers employment opportunities and at best as a burden to the welfare regimes of host countries. The image of overcrowded boats, transporting and often abandoning groups of migrants in desperate conditions on Southern European ports, often contributes to support this perception of migrants as hardly able to sustain themselves in the host countries.

Evidence shows that none of these perceptions can be supported by facts. While a certain proportion of migrants do arrive in desperate conditions, with no economic means, mostly exploited and sometimes recruited by international and local criminal organisations, the overwhelming majority arrives in European countries regularly, crossing airport or land borders with the support of networks, family or friends, and often with a concrete perspective of employment, in many cases as domestic workers. It is also quite clear that their contribution to the host societies' labour markets, economies and social life is of increasing importance for their social cohesion and well-being.

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### 3.1 Educational attainment and over-qualification

Today's profile of migrant domestic workers' in Europe tends to differ from stereotyped images and from what they used to be until only a couple of decades ago. As opposed to the past, one of the main characteristics of migrant domestic workers is their increasing level of educational attainment, which is more and more becoming a requisite for finding employment.

"If women want to work in a foreign country, they are expected to have received training in their home country, to speak foreign languages (mainly English) or to have at least the skills to find their way around in a foreign country".

Source: Lutz H. "At your service madam! The globalization of domestic service" in *Feminist Review*, Volume 70, Number 1, 1 January 2002, pp. 89-104(16). Palgrave Macmillan, p.95.

The increased participation of national women into the labour markets discussed above seems to also have an effect on the tasks assigned to domestic workers, to whom more and more responsibilities linked to the education of children and the care of the elderly and disabled are entrusted. Given the availability of labour supply, employers tend to select increasingly qualified workers who not only show the "social competences" required to be able to handle the delicate dynamics within a household, but also hold specific skills such as, for example, linguistic skills.<sup>55</sup>

Educational attainment seems to play an important role on the level of integration of female migrants into the labour market. Available statistics register, in fact, a lower employment rate for highly skilled migrants than for their national counterparts, suggesting greater difficulties for these categories of workers to find an occupation corresponding to their qualification. For women with basic education, the employment rate difference between foreign and native-born women is, normally, lower on average than for highly educated women. As noted above, in places such as urban centres with a large domestic sector, female migrants' participation in the labour market might be even higher than the corresponding rate of nationals. It is, therefore, clear that, "when in employment, immigrant women tend to occupy jobs which are less skilled than those of their native counterparts". As could be noted in the table below, the estimated over-qualification rates<sup>56</sup> are particularly high, although not exclusively, in Southern European countries, where a high percentage of immigrant women are concentrated in domestic and care services. In Italy, for example, surveys on domestic workers have consistently found a high ratio of university graduates: (about 25 per cent both in a 1998 survey conducted by CERFE and in a 2003 survey conducted by Silvano Andolfi Foundation).<sup>57</sup>

This phenomenon is particularly common for women who were born in non-OECD member countries, but data shows that immigrant women, in general, are systematically more exposed to over qualification than their national counterparts, contributing to the so-called "brain drain phenomenon".<sup>58</sup>

<sup>55</sup> Helma Lutz and Susanne Schwalgin point out that "those who are accepted into this private sphere (the domestic workers) are expected to share, respect and honour the emotions that the members of the household associate with their belongings, their items, and the order of things. They have to accept the "habitus" of the household, its genderisms and its hierarchical order." Lutz and Schwalgin, op cit. pag.8.

<sup>56</sup> i.e the proportion of women whose educational attainment is higher than the general requirements for the occupation that they hold.

<sup>57</sup> Jonathan Chaloff, "Current Immigration Debates in Europe: A Publication of the European Migration Dialogue", Jan Niessen, Yongmi Schibel and Cressida Thompson (eds.) Country report: Italy, MPG 2005.

<sup>58</sup> J-C Dumont and T. Liebig, op.cit.

### 3.2 Age and professional experience

Immigrant domestic workers in today's Europe are not only generally more qualified than their predecessors, but also older and, on average, more experienced. While migrant domestic workers tend to be, generally, still younger than national women employed in the sector, their age has increasingly grown over the last decade, suggesting new kinds of migration patterns and certainly implying a different migratory experience. Today, women tend to migrate at a stage of their life when they have concluded their educational path and they have a family of their own who they provide for and support through their migration process.

Table 4. Percentage of women (15-64) in jobs for which they are overqualified, by place of birth, selected OECD countries, 2003-2004

	Native born	Foreign-born	Foreign born from Non-OECD countries
Austria	9.3	24.8	32.8
Belgium	17.7	24.6	27.2
Czech Republic	6.6	12.8	22.0
Denmark	10.5	19.7	31.0
Finland	18.8	26.2	38.0
France	14.2	18.8	19.8
Germany	9.9	23.6	32.3
Greece	9.0	53.4	62.0
Hungary	7.3	10.5	8.9
Ireland	15.6	23.9	38.2
Italy	7.1	27.4	34.0
Luxembourg	3.2	14.1	31.0
Norway	10.6	25.1	35.9
Portugal	8.9	16.2	18.7
Spain	24.4	47.6	56.7
Sweden	7.2	15.3	23.2
Switzerland	7.6	13.8	19.8
United Kingdom	14.9	17.0	18.7

Source: OECD, table included in J-C Dumont and T. Liebig, "Labour market integration of immigrant women: overview and recent trends", paper presented at the OECD and European Commission Seminar on "Migrant Women and the Labour Market: Diversity and Challenges", Brussels, 26-27 September 2005.

This is particularly important as it has clear implications in terms of the motivations behind their migration decision, their expectations about work abroad and their plans of

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return, and of course in terms of the social costs on the family left behind. Research on the new “transnational families” is rich with details on the often-contradictory positive and negative implication of female migration on families left behind. A detailed analysis of these socio and psychological implications goes beyond the object of this report, yet it is worth noticing that they play a major role on the possible social and economic integration of migrant domestic workers in the host countries, as well as, on their potential exposure to exploitation and abuse. The increasing number of trans-national households also contributes significantly to the increasing relevance of the so called, “care chains” phenomenon, by which care is outsourced from one woman to the other on a global scale.

#### **4. What working conditions for immigrant domestic workers? Working and living experience**

Generally speaking, migrant women working and employment conditions tend to be significantly different than to those of national women, as well as, of migrant men. A recently published study, based on European Labour Force Surveys analysis, looked at indicators such as unemployment rates, temporary employment, involuntary part time employment, wages differential and occupational concentration, to highlight these differences.<sup>59</sup> Available statistical evidence shows for example high wage and working time differentials between nationals and migrant workers.<sup>60</sup> Foreign female workers are, for example, reported to earn in average 20 per cent lower wages than Swiss male counterparts. According to official statistics, about 20.7 per cent of the people who were working under the “other services and private household services” sector in 2004<sup>61</sup> were foreigners (in total: 57,000 foreigners), 65 per cent of whom were women. Salaries on this sector are estimated to be approx. 24 per cent lower for foreigners than for natives.

Migrant domestic workers are not excluded from these situations of relative disadvantage. In fact, working conditions in this sector, though significantly depending on the national and local context, the type of individual working relationship and of course on the residence status of the worker, might prove particularly hard, or even exploitative and abusive. In fact, even when the legislative framework guarantees equal opportunities, equal treatment of national and non-national workers, evidence shows that domestic work remains one of the least protected and regulated sectors and enforcement mechanisms that existing enforcement mechanism are often insufficient to ensure protection against exploitation and abuse in this specific sector.

While caution should be used in victimising domestic workers and therefore contributing to gendered based stereotypes, experts largely agree on the existence within the sector of widespread situations of labour exploitation including low wages, long hours of work and insufficient periods of rest and leave, insufficient or unsuitable meals and accommodation, lack of privacy, and in worst cases psychological, physical or sexual abuse.

Qualitative research mainly conducted by Trade Unions and non-governmental migrant organisations in many European countries outline an alarming picture of the level of abuse that migrant domestic workers can suffer. These reports - that have the objective of denouncing labour exploitation and advocating for change- specifically focus on the

<sup>59</sup> Jennifer Rubin et al. “Migrant Women in the European labour force”, Technical Report, RAND EUROPE, Cambridge, UK, 2008.

<sup>60</sup> These differentials affect women workers across sectors. Yet wages differential seem to affect migrant women in highly skilled occupations while differences in wages tend to decrease for low skilled occupations.

<sup>61</sup> Office fédéral de la statistique (OFS): La population étrangère en Suisse – Edition 2005. Neuchâtel : OFS, 2005, Tab. P26F, p. 113

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situation of those who recur to these organisations often as a result of situations of sometimes extreme abuse. Therefore, they cannot be considered as representative of the general situation of domestic workers. Yet, they are also likely to underestimate the extent of exploitation in the sector as they tackle only the top of the iceberg, while many abuse situations remain unreported due to the lack of information and fear of negative repercussions.<sup>62</sup>

<sup>62</sup> The UK-based organisation Kalayaan reports alarming figures concerning the level of abuse denounced by 387 registered domestic workers: 86% of them reported for example to work more than 16 hours a day and 70% denounced physiological abuse. These data cannot of course be taken as representative of a general situation but should certainly raise awareness on the existence and extent of abuse in the sector, even when migration has occurred through regular channels. See Kalayaan, UK Immigration Law and the position of migrant domestic workers: [www.kalayaan.org.uk](http://www.kalayaan.org.uk)

### Box 6. Working and living conditions of migrant domestic workers in the Netherlands

#### Main outcomes of a qualitative research

A research on migrant domestic workers was conducted in the Netherlands by the Women's Programme of the Commission for Filipino Migrant Workers (CFMW), in 2005. Emerging issues reveal a widespread range of violations of rights, which include the following:

#### Working Conditions

- No written contracts between family employers and worker
- Work without social benefits, access to health care and education
- Insecurity of job - options for terminating employment are frequently unilateral on the side of the employer.
- Multiple part-time jobs when 'live-out', including work during at weekends.
- Total availability when 'live-in' - can be called on to work at any time and frequently the agreed 'day-off' is cancelled or changed by the employer.
- When the employer is on holiday, or the worker is ill, a practice of 'No work – no pay' applies.
- MDWs are expected to be 'always on the job' – they experience reprimands or threats to lose their job even when they have legitimate reasons for being absent (illness or personal/family emergency).
- Most find it difficult to negotiate even a small change in their working conditions – and feel they are 'totally dependent on the goodwill of the employer'

#### Living Conditions

- MDWs who live-in are constantly negotiating a dividing line between being a 'worker' and being 'part of the family'; their accommodation is often in cramped conditions
- MDWs who live-out are faced with frequent sub-letting, high rents and unscrupulous landlords
- ALL MDWs interviewed do not have access to public health care and are therefore not able to benefit from preventative health care services; a few choose to pay a private health insurance
- Fatigue and stress are common health complaints among MDWs

#### Other Experiences common to all MDWs

- Most are fearful to protest against violations of their rights or experiences of abuse and threats, since the consequences of losing their job(s) are very high – MDW families in their home countries literally depend on their daily work
- All MDWs interviewed report experiences of racism in different forms: racist remarks and stereotyping; racist put-down
- African MDWs report discrimination on availability of work and exploitation in terms of the wages paid to them as compared to MDWs of other nationalities

Although not widespread among those interviewed, some MDWs reported experiences of sexual harassment; withholding of passports by the employer and threats to be reported to the police.

In response to the realisation of widespread abuse of MDWs rights, RESPECT was established as a joint initiative and Europe-wide network around the campaign for employment rights, particularly the rights of migrant domestic workers. RESPECT evolved as a network where migrants and their organisations from different countries in Europe are key initiators, together with migrant rights advocacy organisations, trade unions, women's groups and other NGOs.

Source: CFMW Research Report on Migrant Domestic Workers (MDWs) in the Netherlands, December 2005.

The situation of physical, cultural, often linguistic isolation in which many migrant domestic workers live, in particular when in a live-in type of employment, exacerbates their lack of access to available protection mechanisms and support networks.

Lack of information on existing migration and labour legislations, on the rights they are entitled to and on the duties they are subject to, as well as, lack of familiarity with relevant institutions and practices in the host country, are the elements of vulnerability that

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most organisations active in the field have identified as key for the effective protection of these categories of workers. Linguistic barriers often add up as a further deterrent to seek support from local institutions or organisations.

Whether or not they have come through official migration channels, women are often misinformed or unaware of the working and living conditions in the host country. Research conducted in the United Kingdom suggests that a good share of migrant workers admitted through the domestic workers' visa were not informed on the applicable legislation in the host country and were therefore not aware of their rights and of the available complaint mechanisms.

From an individual perspective, most of these women generally look at migration as a temporary experience aimed at improving their personal or their families living conditions. The perception of their residence abroad as of limited duration clearly plays an important role on the socio-economic integration of the worker in the host society. If they perceive it as short-term, migrants might be more prone to accept abusive conditions of employment in exchange of increased economic benefit to the families left behind.

However, plans for return and labour reintegration in countries of origin, or for labour and social mobility within the host society are often frustrated after a short period of time. Especially, the longer they stay in domestic work and the harder it becomes to find a job in another sector. While, as discussed above, many migrant domestic workers are overqualified for the occupation they cover, the lack of recognition of their diplomas and of their precedent professional experience have a negative impact on their labour mobility. Also, over the years, they tend to progressively lose their professional competencies (a phenomenon known as "deskilling"), which further reduces their chances of moving to other sectors even after the limits on labour mobility imposed by temporary migration programmes are lifted. Evidence, in fact, shows that many simply move from live-in to live-out or hourly paid work in the same sector, as opportunities of career development and availability or knowledge of training opportunities, which are largely unavailable or inaccessible.

Even when migrant domestic workers are granted a regular work permit, a clear segregation of the labour market along gender and nationality/ethnicity lines confines non-European immigrant domestic workers, women in particular, both *by law* - when temporary migration programmes limit their mobility for a protective timeframe-, and *by practice*, with domestic work being one of the least valued and least protected, female stereotyped occupations.

This of course has an impact on the eventual reintegration of migrant domestic workers in the labour markets of their countries of origin, since the skills and competencies acquired in the host country are of little use once back home. Moreover, the changing demand of the families left behind, increasingly relying on remittances, might also heavily influence the decision to extend their stay and make it more difficult to accumulate savings to return. In some countries, after a minimum period of residence in the country of destination, migrants are given the possibility to re-unify with their families in the host country, provided that they meet some (mostly financial) requirements, but rarely do they manage to move upward the employment and social scale. Furthermore, fulfilling the requirements often proves particularly difficult for domestic workers not only due to the low remuneration they perceive, but also due to the fact that they sometimes have to live-in their employers' household and therefore cannot provide for a suitable accommodation to their family members.

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## 5. Access to social security and social protection benefits

As previously highlighted, domestic work often falls under special social security and social protection schemes, which per se limits the full enjoyment of these benefits even by regular, national employees in this sector. Part time workers or workers employed by various employers might be particularly penalised as they often do not fulfill the conditions necessary for the contribution to social security schemes or might find it too onerous or cumbersome to regularise their employment relationship.

Migrant domestic workers, even when they are regularised residents in the host country, might be even less protected by social security schemes. The situation is, of course, extreme in the case of irregular migrants, who in many countries do not have any access to welfare schemes nor to health care services. In Portugal, for example, irregular migrants are implicitly included within the coverage of health care services but the costs are to be paid by the migrant. As highlighted above, temporary migration schemes might, by law, limit full enjoyment of social security benefits or can set a minimum qualification period to grant these rights. On the other hand, even when foreign workers are equally covered by social security benefits, in practice, they might encounter difficulties to access them due to lack of information on their rights and on the existing procedure to enforce them. The situation of isolation and lack of social networks, in which many domestic workers find themselves, might complicate things even further.

Even when regular migrant domestic workers are requested to contribute to social security funds, unemployment and other kinds of social benefits such as, invalidity benefits or compensations for incapacity to work due to sickness or accident, are often not accessible to them, or could be accessible subject only after a qualifying minimum period of residence. In Germany, for example, migrant workers with the special caregivers permit (see above) have to contribute to unemployment insurance but are not allowed to make use of it.<sup>63</sup> In certain countries, such as Italy, employers have to bear the costs of absence for illness of their domestic employees while the social insurance institute would intervene in case of illness for other categories of workers.

Another issue of great importance is the old age retirement pension, that most migrant domestic workers lack. Some countries have signed bilateral agreements through which old age pensions can be paid through the countries of origin social security system, upon the return of the migrant during retirement. In other cases, the worker receives a lump sum upon return to the country of origin.

But, in most cases, large shares of migrant domestic workers are not covered at all by any kind of benefit because of their irregular residence status. As a recent research has pointed out “as the old age pension of these women is not regulated, it can be assumed that new long-term dependencies develop, for example, on their daughters’ incomes whose education was paid by the absent mothers”.<sup>64</sup>

## 6. Organisation and voice

Finally, but most importantly, for the effects this might have on all the aspects mentioned above, a major problem for migrant domestic workers is their lack of or

<sup>63</sup> Spindler, Mone and Lenz, Ramona, “*Political Strategies Regarding Female Migrant Domestic Workers in Germany*”, 2007.

<sup>64</sup> Helma Lutz, “*At your service madam! The globalization of domestic service*” in “*Feminist Review*” 70, 2002, pp. 89-104.

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insufficient organisation and voice. Many are the reasons for which this might be particularly challenging, yet particularly important, for this category of workers, which this report will briefly mention. As highlighted above, domestic workers are often physically and culturally isolated, misinformed or ignorant of their rights and duties, often overworked and with little free time, and too afraid about possible negative legal and social consequences to take any action against abusive working conditions. They are often scattered in different geographical or city areas, with little time to commute and gather with the purpose of exchanging views and experiences. They often have little confidence in themselves and scarce trust in others.

Some reports have also noted that, in some cases, the fact that they have professional skills that are not recognised in the host society and have therefore to accept to work as domestic workers, can also make them hesitant to participate and organise as domestic workers as they find it difficult to accept the transition to a low occupational status<sup>65</sup>. Their often double irregularity under migration and labour laws and the fact that these workers often regard their experience as temporary make collective action and participation more challenging. Even if both Trade Unions and civil society organisations have marked important recent steps in this direction. Yet, it is still not sufficient to guarantee equal access and treatment of migrant domestic workers to decent employment and promote their protection under the law. The following chapter will provide a general overview on how trade unions and civil society organisations including migrant workers organisations are mobilising to promote the protection of domestic workers, with a particular emphasis on the situation of migrant workers. I will also include some case studies on selected European countries.

## 7. Section conclusions

In Europe, migrant and national women face today very different challenges with regard to equality of access and treatment in employment. Evidence shows important differences with regard to a variety of fundamental economic and social integration indicators. These arise from existing social and cultural structures and from gaps in legislative and policy measures governing migrant women's employment and residence status, which allow or even deepen these differences. With significant national differences, European countries have still not succeeded in promoting effective integration of migrant women into their labour markets and their societies at large.

Women migrants are, currently, the growing majority of workers in the domestic sector. Their working and living conditions in many countries are often particularly difficult due to the peculiarities of the occupation and the employment relation itself and to their migration status. Migrant domestic workers face direct and indirect discrimination by law and by practice, which require coherent and consistent policy and legislative interventions in the field of migration and of employment.

Introduction of regular channels of entry and residence for this category of workers is only one but a first and fundamental step towards the progressive achievement of the European equality agenda on the one side and employment and growth objectives on the other.

Removal of existing legislative and administrative barriers to their integration, such as the full enjoyment of social security and social protection benefits or the recognition of

<sup>65</sup> Helen Schwenken, "Domestic Slavery versus Workers rights: political Mobilization of Migrant Domestic Workers in the European Union", CCIS Working paper 116, January 2005.

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diplomas and competencies, should be an integral part of the policy approach on the subject.

Finally, introduction of specific measures such as the promotion of training and reskilling or retraining opportunities, specialised social and employment support services should be considered as a way of counterbalancing their relative disadvantages and reverse stereotyped perceptions.

The following chapter will be looking at how selected countries are dealing with these challenges, with a view to provide some useful examples of possible policy responses.



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## **Section 3 - Selected case studies and initiatives to organise and provide protection to migrant domestic workers in Europe**

### **1. Trade Unions and NGOs' actions to protect domestic workers**

Migrant domestic workers support organisations are increasingly active throughout Europe. They usually take the form of civil society organisations (NGOs) and self-help (undocumented) migrant workers groups, as this field of work seems to be quite new for Trade Unions. Migrants seem to have mostly organised around specific interests or ethnic or linguistic origins, but they increasingly start to build international networks and cooperation for lobbying and campaigning purposes. Organisation for purposes such as, remittances' transfer or savings, building support networks, organising educational and language courses, providing legal assistance and counselling, are increasingly present in many European countries. This is for example the case of Filipino migrants, who seem to have important social networks in many European countries. Some countries, such as France, Belgium and the Netherlands can also count on a long tradition of self-organisation of national domestic workers, which, given the increasing presence of migrants in the sector, are more and more taking the concerns of migrant workers as part of their agenda. More and more seeking to avoid the victimisation of migrant domestic workers and the "vulnerability" approach, these organisations advocate for the recognition of migrant domestic work as "proper and well paid work", therefore, demanding respect and dignity.<sup>66</sup>

As mentioned above, Trade Unions' interest in migrant domestic workers, especially those in irregular working status, is a rather recent phenomenon, yet an increasingly important one. Domestic workers, migrants and informal economy workers are three categories of workers traditionally at the margins of Trade Union movements and migrant domestic workers fall under each and every one of these three categories. Yet, their increasing numbers and share of the labour force and the conditions of work they face clearly constitute a challenge which Trade Unions cannot ignore. In response to this, Trade Unions, especially but not exclusively in southern European countries and at the regional level, have taken the concerns of migrants in an irregular situation on board and increasing interest is being dedicated to the problems faced by female domestic workers.

The European Trade Union Confederation (ETUC) took the lead by organising an international conference in 2005 fully dedicated to the subject, which brought the issue to the forefront of the international Trade Union Agenda. This conference stressed the importance for Trade Unions to develop innovative ways to reach all workers in the informal economy, especially those in the domestic sector, and organise them to be able to lobby for an improved legislative and policy framework on the subject. Unions and NGOs from different European countries were given the opportunity to share their experiences and their actions to protect migrant domestic workers. The box below gives some examples of these actions as they were reported during the conference.

<sup>66</sup> Helen Schwenken, "Domestic Slavery versus Workers rights: political Mobilization of Migrant Domestic Workers in the European Union", CCIS Working paper 116, January 2005.

#### Box 7. Selected European Trade Union action on domestic work

The Dutch Union FNV-ABVAKABO, for example, reported the recent opening of its membership to migrant domestic workers, irrespective of their legal status, with a view to lobbying for the recognition of their rights and to support them through support services such as the use of facilities and equipment. This Union closely cooperates with 3 groups of Filipino migrant workers' organisations to encourage organisation of these workers and campaign for their regularisation. In other countries, Trade Unions have mobilised to create awareness on the subject and disseminate information on migrant domestic workers' rights.

The Irish Congress of Trade Unions, for example, has published and disseminated an information guide on "Home and workplaces. The rights of domestic workers", which includes practical information on the relevant legislation and the main entitlements of the workers under the law.

In Belgium, the CSC Food and Services trade union has engaged in a number of information and awareness raising activities such as the distribution of information to domestic workers, the organisation of a public campaign on the subject, the collection of signatures for a petition demanding recognition of legal rights to stay and appreciation of domestic work as proper work and the distribution of a model contract for use in private households. As a result of this mobilisation, a parity commission for domestic work was created and a collective agreement reached with an employer's body that, among others, reduces the working week to 38 hours. The union also engaged in a discussion with the Ministry of Labour.

In France the CGT trade union has actively promoted organisation of domestic workers, by encouraging its branches and departments to hold local meetings to attract domestic workers, especially in the evenings, when they are more likely to attend. In Denmark, trade unions were very active in the discussion concerning the establishment of the "home service scheme" in the mid 90s, through which the State subsidized families to get home services by officially registered service providers. In spite of its shortcomings, unions have supported the system, which was closed in the early 2000 by the newly elected Government.

Note: For the most recent initiatives of trade unions on the subject see individual Trade Union web sites, or the recently established global network "Respect and Rights for Domestic Workers" at: <http://www.domesticworkerrights.org>

In other European countries, Trade Unions are still giving very limited interest on the subject or are dedicating too little financial resources to it. Many unions often assign the responsibility to deal with domestic work to the Women committees, showing how this is an issue that is still considered, even among unions, as a women's issue. It is very important to test new forms of organisation, as the characteristics of migrant domestic work might be quite different from one country to the other and from those of national workers within each country.

As it was recognised during the 2005 conference, Trade Unions have marked important steps in this direction, by lobbying at national and European level for the inclusion of the issue of feminisation of migration within important policy debates and documents (such as ETUC response to the European Commission Green Paper on A EU approach to managing economic migration, March 2005<sup>67</sup>). Trade Unions are also at the lead of a movement that aims at pushing the agenda forward within the ILO and supporting development of a new standard setting instrument specifically devoted to the subject.

The role of Global Unions is also of great importance to mobilise the attention around the subject, promote cooperation between unions and with NGOs and push the ILO agenda forward on the subject by virtue of their full status as one of the tripartite members of the ILO. The global IUF Global Union Federation agreed to take a lead in developing an international programme of work for domestic/household workers' rights, though as a specific project it does have to raise its own resources. Other Global Unions, such as ITUC, the Union Network International (UNI) and PSI, will participate in the project, with

<sup>67</sup> Towards a pro-active EU policy on migration and integration, ETUC response to the Commission's Green Paper on a EU approach to managing economic migration <http://www.etuc.org/a/1159>

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the aim of building an open network of unions, self-organisations and NGOs agreeing to its overall aim and objectives. As highlighted above, the ITUC has taken an active role to push the item forward on the ILO agenda as it is demonstrated by the numerous recent calls to all its affiliates to stimulate their governments in this direction<sup>68</sup>.

Interactive and constructive dialogue is also ongoing among the Trade Union Movement and NGO networks, such as the International Restructuring Education Network Europe (IRENE) that has a long experience in the field of informal work and globalisation, or the Platform for International Cooperation on Undocumented Migrants (PICUM), whose objective is to promote respect for human rights of undocumented migrants, or the Rights, Equality, Solidarity, Power, Europe, Cooperation, Today network (RESPECT), which comprises a variety of associations from 10 European countries with the aim of campaigning for the rights of migrant domestic workers. The focus is on domestic work as decent work and on migrant domestic workers as workers who are fully entitled of all labour rights. This opens avenues for improved future mobilisation and cooperation with national Trade Unions, whose increasing interest in organising informal economy workers could also be an element of the mobilisation strategy.

## **2. The Italian quota system and the role of Trade Unions, civil society organisations and local authorities. A case study**

### ***2.1 A Normative Framework for Temporary Migration to Italy***

The Law No. 189 of 30 July 2002, known as the 'Bossi-Fini law' after the names of the politicians who proposed it, regulates immigration into Italy amending the 1998 immigration law and introducing new clauses. A decree on procedures for regularising the situation of immigrants in an irregular situation in the country was adopted in September of the same year. The immigration law has been then systematized within a framework law (testo unico) on immigration and conditions of foreigners in Italy. Compared to the previous legislation, this law introduces some more restrictive measures for entry, such as among others, the abolition of the possibility to entry with a job-seeking permit through a "sponsor". The law subordinates the issuing of a work permit to a predetermined yearly quota, based on a previous labour market assessment. A programmatic document covering a period of three years establishes the general immigration criteria. Each year the President of the Council of Ministers publishes a decree by which the maximum quota for extra communitarian nationals allowed to enter the country for employment is determined. This maximum quota is based on employment demand (established by the Ministry of Employment) and the number of residence permits issued on demand or for temporary social protection measures. The decrees set specific quotas for every category of entry (subordinate employee, self employee, seasonal employee, etc.), divided per specific country or regional origin. In the absence of the decree, the quota is determined based on the, latest, previous decree.

For the 2007 quota, the decree established a total of 170,000 work permits to be distributed across three categories of employment and according to specific geographical areas of origin. The decree specifically included a total of 65,000 permits for domestic and

<sup>68</sup> On the Trade Union movement actions and recent initiative on migration and domestic work, see the following websites: <http://www.ituc-csi.org> ; <http://www.etuc.org> and in particular the news on the network "Respect and Rights for Domestic Workers" on the web site [www.domesticworkerrights.org](http://www.domesticworkerrights.org)

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care services. Another 47,000 permits are reserved to countries that have signed bilateral agreements with Italy, without specification to any particular sector of employment (therefore including domestic work).

The law also establishes the creation, in each prefecture, of an Immigration Desk (sportello Unico Immigrazione), where labour immigration and family reunification practices should be dealt with.

Once the applications are received, they are examined and distributed according to the different Italian regions.

### Box 8. the Bossi-Fini Law

The European Foundation for the Improvement of Living and Working Conditions described the most significant aspects of the law as follows:

- Each year, before 30 November, the Prime Minister will determine the number of non-EU workers who can be admitted into Italy in the following year;
- there are no limitations to entry into Italy for highly-skilled workers (university lecturers and professors, professional nurses, etc);
- other non-EU immigrants will be allowed entry into Italy only if they have a 'residence contract' (contratto di soggiorno) - ie a contract of dependent employment signed by an employer (a firm or a family) and the immigrant worker. The contract must provide for accommodation and the payment of travel expenses for the workers to return to their country of origin. Italian embassies and consulates will issue entry visas only on these conditions. When the contract expires, the immigrant worker must return to the country of origin;
- a specific immigration office is to be set up in each province of Italy to oversee the entire recruitment procedure for immigrant workers on both open-ended and fixed-term contracts. Employers are able to recruit specific immigrant workers 'by name' or from lists of immigrant workers held by Italian embassies and consulates abroad;
- the new offices will also deal with applications for non-EU citizens to enter Italy for purposes of family reunification. Only non-EU immigrants with a regular residence permit will be entitled to present this kind of application with regard to their family members. Only 'first degree' relatives will be admitted - spouses, children and parents over 65 years of age with no other form of support;
- residence permits issued for reasons of employment will last for a maximum of two years, even if the worker concerned has an open-ended contract of employment. In these cases, the immigrant workers must request the renewal of his/her temporary residence permit when the old one expires;
- when the residence permit is issued, immigrant workers must register their fingerprints;
- after six years of regular residence in Italy, non-EU citizens, after proving that they are able to sustain themselves and their families will be able to receive a form to request a permanent permit instead of a temporary residence permit;
- irregular immigrants will be deported and accompanied to Italy's borders. Deportation will be immediate and will not be suspended even if the immigrant appeals to the courts;
- suspected immigrants in irregular situation stopped by the police will be taken to specific centres controlled by the police. The authorities will try to discover their identity during the following 60 days. If they are found to be irregular immigrants, they will be ordered to leave the country within five days (a period they must spend in the centre). If they fail to do so, the undocumented/irregular immigrants will be arrested for a period between six months and one year or deported and accompanied to the borders. If they return to Italy, they will be arrested and tried by the courts;
- non-EU minors living in Italy will obtain a residence permit once they reach adult age (18 years) provided that they already have lived in Italy for at least three years and have attended a social and civil integration programme provided by a public or private organisation. This organisation must also guarantee that they have accommodation and attend school or go to work. The number of residence permits issued on these conditions will be subtracted from the pre-defined number of total annual permits; and
- for irregular immigrants already in Italy, the law provided for an amnesty which allowed the regularisation of the position of those who have worked and lived in Italy for at least three months.

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The new law came into force on 26 August 2002:

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#### Box 8. The Bossi-Fini Law (continued)

##### Decree on regularisation

A decree-law issued by the cabinet on 6 September 2002 provided for the regularisation of two types of irregular immigrant workers: those employed as domestic workers or home-helpers; and dependent workers involved in other kinds of subordinate employment. Immigrants whose residence permits had expired was given the possibility to regularise their situation, provided that they had not received a deportation order. All regularised immigrant workers were entitled to receive a residence permit with a duration equal to the duration of their employment contract, but in any case no longer than two years.

The decree allowed for the regularization of domestic workers and home-helpers, under the following conditions:

- Only one home-helper could be regularised per family.
- The employer had to certify the presence in the household of old or disabled people who need assistance;
- Payment of a specifically determined minimum wage per month;
- Payment by the employer of the social security contribution to the National Institute for Social Insurance (Istituto nazionale di previdenza sociale, Inps); and

Upon the final check by the prefecture of all the documentation and the signature of the regularisation agreement and the residence permit in front of the competent authorities (prefecture).

Source: European Foundation for the Improvement of Living and Working Conditions, (see: <http://www.eurofound.europa.eu/eiro/2002/09/feature/it0209103f.htm> )

## **2.2 The new Italian computerised system (2007) and the role of civil society associations**

With the immigration decree of 2007 a new online procedure for submitting applications for a work permit has been introduced, substituting the submission through post offices, which had been largely criticized due to the long queues and chaotic situation it created. Under the new procedures, all applications have been processed through a computerized system, according to which - provided they fulfill all formal requirements - applications are approved and permits are granted on first-come first-serve basis, according to the exact timing the application is received. In December 2007, a three day window of opportunity was open to employers to electronically submit applications for work permits. The procedure included the necessity to download a specific programme through which detailed application forms and correspondent documentation had to be submitted. A total of 687,948 employers' permit requests were received online by the competent authorities, mostly within minutes from the official opening time for submission, 391,864 of these applications were for domestic and care work permits. These numbers clearly show the inadequacy of the maximum quota established by the decree to satisfy the actual labour demand for immigrant workforce. The established maximum quota for domestic workers in that year was, in fact, set by the 2007 Ministerial Decree at 65,000 workers (plus a few thousands that could enter under bilateral agreements with selected countries for which the sector of employment is not specified by the decree)<sup>69</sup>. Considering the evidence, it shows that large shares of the workers who apply for a work permit are actually already irregularly resident in Italy. Furthermore, this also gives an approximation of the dimension of the phenomenon of informality.

<sup>69</sup> Decreto del Presidente del Consiglio dei Ministri 30 Ottobre 2007, Programmazione transitoria dei lussi d'ingresso dei lavoratori extracomunitari non stagionali, nel territorio dello Stato, per l'anno 2007.

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The decree regularising migration flows for 2007, limited the number of work applications that each employer could submit to a maximum of five. This process is aimed at fighting the rising illegal practice of “selling” work permits by using “false employers”. On the other hand, the decree allowed, via the signature of a specific memorandum of understanding, trade unions, category associations, patronages, and registered labour consultants, to act as facilitators and therefore present an unlimited number of work permit applications on behalf of employers. A large number of these organisations have voluntarily registered with the Ministry of Interior to be able to provide assistance and act as facilitators in the process.

These organisations have mobilized largely to support migrant workers and their employers to submit regular applications by providing them legal counselling and by processing their application online, free of charge.

In particular, under the MOU between the Ministry of Interior, the Ministry of Social Solidarity and the relevant organisation, the parties committed to cooperate in order to provide employers and foreign citizens with the assistance and information on how to compile and submit electronic forms. These organisations have also supported the necessary synergies between the Immigration Desks and the organisations operating at the local level.

The role of these organisations has been, therefore, key to guarantee all workers and employers equal access to the application procedures for a work permit. On the other hand, important delays have caused criticism to a procedure that was introduced, among others, with the aim of simplifying and shortening the process. Critics, also, affirm that the new computerised procedures have only “moved the queues” from the post offices to offices of the organisations authorised to submit applications. Furthermore, trade unions and other organisations are expressing concern about the fact that given the high number of applications they had to submit, their submissions might have taken slightly longer than those of individuals and therefore registered, officially, with some delay. In a process by which even few minutes’ difference in the official time of registration can make a difference, this might in fact penalise the organisations vis-à-vis private employers. Finally, Trade Unions are largely criticising the Immigration Law since -in their view- it does not sufficiently take into account the actual labour market needs. In spite of a legislative reform being currently under discussion, it is still not clear what form it will take and what consequences it will have.

In addition to Trade Unions and other organisations, an increasingly important role is being played by local municipalities and organisations. In February 2008, a pilot experiment was started in 223 Italian municipalities (comuni) for the renewal of residence permits. According to this new procedure, the local municipalities will cooperate with prefectures with the aim of simplifying and shortening the administrative procedure for the renewal of the residence permits.

The involvement of local authorities and local organisations can be seen as a positive step, as it is at the local level that the measures might ensure or guarantee protection of migrant workers rights and the promotion of their socio-economic integration.

**Box 9. Promotion of socio economic integration of migrant domestic workers at local level: a project in the Region of Veneto (Italy)**

Veneto Lavoro is the technical agency for employment of the Veneto Region, established by the Regional Law nr 31/98. It carries out its technical functions and activities according to the directions of the Regional Government, in coordination with the seven Provinces of the Veneto, the Institutional Coordination Committee and the Regional Commission for social dialogue with the representatives of the social partners. It has organizational, accounting, administrative and financial autonomy, but it supports the institution and other organizations, featuring qualified services in terms of planning, management and evaluation of the labour policies. Veneto Lavoro has implemented, in cooperation with regional partners, in a number of innovative projects on (migrant) household and care work. The following projects are worth mentioning:

Experimental training and job placement for family carer-givers (within project MIGRANTS 2005)

This project has been implemented by Veneto Lavoro in collaboration with the Region of Veneto as part of the "Migranti 2005" project. Its overall objective is to develop methodologies and a model for regional immigration services for household and care workers, based on the effective matching of labour market supply and demand as well as promoting the integration of migrant workers. This objective was pursued through the provision of training support and placement of care workers in households with dependent relatives. The project also aimed at strengthening the regional model for migration flow management, and identifying good practices to be implemented at the local level. The project was carried out in strict cooperation with the local network of health and social services provided by Municipalities and Local Health Authorities. With the view to support immigrant workers insertion in the labour market in condition of dignity and freedom, and better value their professional and personal integration, the project promoted the following kinds of activities:

- Language and local culture training (Italian and Veneto)
- Vocational training
- Assistance upon arrival
- Assistance for social integration

With the view to supporting this project, the Ministry of Labour has reserved to the project 50 entrance permits out of the quota established for 2005, to be divided between Moldavian and Romanian citizens. The implementation passed through the following steps:

- Collection of requests for family carers in Veneto through local authorities and grassroots organisations
- Identification and selection of workers in countries of origin through branch offices in countries of origin and local correspondents
- Training of selected workers in countries of origin
- Provision of support services for the processing of administrative procedures for entrance and work permits.
- Identification and selection of local partners and definition of implementation arrangements.
- Provision of services of socio-professional support through vouchers to 3 regional cooperatives specialised in immigrant assistance. Services included among others: support in accommodation, provision of vocational training, legal literacy on rights and duties, support in administrative procedures linked to the work permit, assistance and mediation in case of difficulties in employment relationships, regular monitoring and follow up of migrant employment and personal experience and integration pattern.

While it is still too early to evaluate the impact and sustainability of this model in the long term, this pilot project has proven to be successful in bringing together a variety of local actors in the interest of families and migrant workers. The innovativeness of the project lies in this network of institutions involved and in its participatory approach which on the one hand fostered the empowerment of migrant domestic workers and, on the other, contributed to create a better environment for their integration in the local territory.

Source: [venetolavoro.it](http://venetolavoro.it)

### 3. The Spanish campaign on domestic work. A case study

Domestic work is currently regulated in Spain under two main instruments: 1) governing the special character of the labour relationship in domestic work, and 2) governing the Special Social Security Regime for domestic work. The former is from 1985 and the latter 1969. At the moment of their adoption, these two provisions were mostly welcomed as a considerable step forward for the protection of a sector that had so far been fundamentally excluded by labour regulations. Currently, there is large agreement that both provisions need fundamental revision. Through the table below, the migration-focused organisation Andalucía AGOGE, compares the general labour legislation with the special legislation covering domestic workers in Spain, pointing out at the important discrepancies between the two regimes that provide clear disadvantages to domestic workers.

Table 5. General labour law and general social security regime

GENERAL LABOUR LAW AND GENERAL SOCIAL SECURITY REGIME*		DOMESTIC WORK SPECIAL LABOUR RELATIONSHIP LAW (Royal Decree 1424/1985) and decree 2346/1969 on special social security regime*
* (Normativa Laboral Común, Estatuto de los Trabajadores y Régimen General de la Seguridad Social)		*Relación Laboral Especial del Servicio del Hogar Familiar. RD 1424/1985 (Relación laboral especial) Y D 2346/1969 Régimen especial de la seguridad social
Unemployment	Contribution for unemployment benefits	Do not contribute to and do not receive unemployment benefits
Social security affiliation	Always compulsory	Not possible below 80 hours per month
	With multiple employers: affiliate for each of them	With multiple employers: contribution is the responsibility of the workers but only if they work more than 72 hours per month
Temporary incapacity	Recognized for common and labour sickness. Receive benefits from the 4 <sup>th</sup> day.	Recognized for common sickness. Receive benefits from the 29 <sup>th</sup> day.
Collective agreement	Exists	Does not exist
Contract duration	If not agreed differently, it is indefinite	If not agreed differently, it is established for 1 year
Contract	Written	Oral contract permitted
Night work	Specific remuneration or compensation per hour	No specific remuneration or compensation per hour is contemplated
Indemnity for contract extinction, death, incapacity or retirement of employer	1 month salary	Not contemplated
Indemnity for termination of contract	8 days per year of service	7 days per year of service
Payment slips	Contemplated	Not contemplated
Notification of holidays	2 months notice	Not contemplated
Minimum rest between working days	12 hours	10 hours if live-out; 8 hours if live-in
Paid holidays and special permits	Regulated by collective agreement	Not contemplated
Hours of readiness for service	Specifically regulated	Not regulated
Breastfeeding / nursing permit	For a period of 9 months after birth	Not contemplated
Disciplinary dismissal	Formalised in writing and submitted to the worker	Not contemplated
Contract registration	Registration at the Employment Office	Not compulsory
Dismissal without cause	Not contemplated	Possible
Wages	Regulated by collective agreement	Minimum wage
Extra-ordinary benefits	2 extraordinary payments of 30 days each	2 extra-ordinary payments of 15 days each

Source: Author's translation of a table included in "EMPLEADA, ni servienta, ni criada". Dossier Informativo, Propuestas y Buenas Prácticas en el Empleo Doméstico, Campaña de Sensibilización, Andalucía ACOGE, 2007.

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On 13 July 2006, the Agreement on Social Security was signed by the Spanish social partners where specific reference was made to the need to revise and adopt the Special Social Security Regime on Domestic work to reflect the current status. The Agreement, furthermore, envisaged the implementation of immediate measures so that the Special regime could start to gradually converge into the General Social Security Regime for full time, regular workers. At the same time, the Agreement foresees the introduction of vocational training schemes for the professionalization of the caring services provided in private households. Finally, it states the necessary measures to guarantee that occasional, part time workers are also covered and are adequately protected by social security provisions.

In 2007, sixteen (16) civil society and Trade Union organisations, studied the situation of domestic workers in Spain and presented concrete proposals for legislative reforms to the Ministry of Labour and Social Security (exercising their right to petition). Led by the organisation Andalucía ACOGE and in cooperation with unions and employers organisation, local municipalities and public entities, this consortium has also carried out a number of relevant activities to raise public awareness on the subject. As part of this effort, a campaign has been launched “EMPLEADA, ni sirvienta, ni criada”, with the view of promoting the rights of domestic workers and of migrant women among this collective of workers.

The first proposal advanced by the organisation is to change the terminology, from “domestic service” to “Family Household Work” (Empleo en el Hogar Familiar) to clearly denounce the servile connotation attributed to this kind of work and contribute to its valorisation.

The proposal provides a complete list of issues to be regulated under a new legislation covering all the points presented in the table above (the obligation to have a written contract, the reduction of the probationary period, the inclusion of a scale of salaries for different sub-categories, level of work, the reduction of possible in kind retribution, etc).

Similarly, the network of organisations proposed changes in the current migration legislation due to the impact it has on the rights of migrant domestic workers.

#### Box 10. An overview of the Spanish legislation on the subject

Immigration in Spain is governed under the *Law on the Rights and Freedoms of Foreigners in Spain and their Integration (Law 4/2000)*, in force since January 12, 2000. The Law 8/2000 amended the previous legislation. The regulation enacting the law entered into force in mid-2001, and set forth a reform agenda for issuing work and residency permits and visas. The law paved the way for the signing of cooperation agreements with main sending countries to manage inflows from the point of origin. Spain has signed several bilateral agreements focused on regulating access to labour opportunities in Spain. Normally, they provide for the communication of employment offers, the assessment of professional requirements, travel, and reception. They, also, aim at enhancing migrant labour and social rights and the working conditions of immigrant workers. The Royal Decree 2393/2004 of 30 December 2004 governs the application of Law 4/2000 of 11 January (amended on a number of occasions) and clearly links immigration to the labour market needs. The introduction of the Royal Decree links the entrance of new immigrants to Spain to the need to fill job vacancies and therefore, as a general rule, "Immigrants who wish to take up employment will have to obtain a visa in their countries of origin which will permit them to work or to seek work."

At the same time, the Decree set the basis for a process of regularisation of a large number of irregular migrants in Spain. At the end of this procedure in December 2005, a total of 691,655 applications were submitted, 573,270 of which received a positive answer. The number of migrant workers who were regularised and subsequently insured under the Social Security schemes was 550,136. Almost half of them are women and a large share employed in domestic work. The Social Security scheme for domestic workers has experienced an increase of 33.42% after the regularisation process.

The law delegates regional authorities an important role on the management of migration flows by relying on their input for the assessment of the specific labour market needs and the establishment of annual quotas for their region. A report listing all the occupations for which there is a labour shortage is published and updated every 3 months. The report is mainly based on information provided by public employment service entities in each of the regions. The regions, therefore, play a relevant role in verifying the shortage of national workers available to fill in job offers, which is a prerequisite for an employer to be able to recruit a foreign worker that is not resident in Spain. Applications for work permits have to be presented *in person* (with no right of representation), by the potential employer at the premises of the relevant authorities. The contract of employment needs to be of a minimum of one year.

The potential migrant can collect the relevant documentation in the Spanish embassy in the country of origin, once the permit is granted. Irregular presence in the Spain is considered a ground for inadmissibility of work permits' application. During the first year of work, the migrant worker has a limited occupational mobility. The work is normally limited to a specific region or province and could only be changed for a kind of occupation that also appears in the list of occupation with labour shortage. Family reunification is allowed provided that the worker can guarantee a number of financial requirements.

In spite of recognizing Spain as one of the most advanced European countries in regulating the subject, critics to the legislation have pointed out some issues of concerns, especially for migrant women, mostly employed in the domestic sector. First of all, the restriction imposed to the employers to be substituted by a legal representative for the deposit of the work permit application, often act as a dissuasive element on many employers of domestic workers due to their old age or incapacity to move. Also, the time frame between the application and the response of the authorities is often longer than employers are ready to wait, given the large availability of irregular labour force in the sector. Finally, some critics pointed out at the fact that the list of unfilled occupations is based on information provided by the employment service system, which is most likely to underestimate the need for the domestic sector since the majority of private employer would not recur to this services for the identification of a possible household employee. Proposal for the revision of the legislation has been advanced by many non government organisations, including the opening of more local offices in charge of receiving application for work permits, the possibility of legal representation of employers who are incapable of personally submitting the application, the shortening of the time delays in the resolution of submitted applications, the use of other sources and increase consultation for the compilation of the quota for occupations with labour shortages, and even the limited introduction of temporary permits for job seekers.

Source: Elena Pallarés Vaquero "La Inserción Laboral Desde La Perspectiva Jurídica". Jornadas "Las Migraciones Contemporáneas Desde La Perspectiva de Género: Retos y Realidades". unpublished paper, 2007.

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## 4. The UK proposal for legislative change and the NGO lobby action: a case study

### 4.1 Current legislation

Under the British legislation, introduced in 1998 and subsequently revised in 2002, domestic workers from non EU countries can be granted a temporary work visa provided that they enter the country accompanying their employer. Every year around 17.000 migrants are granted entry visa under this scheme to perform a wide range of tasks from housekeeping to child and elderly care.<sup>70</sup> This law is a result of a large awareness raising campaign promoted by non-governmental organisations such as the Commission for Filipino Migrant Workers (CFMW), the domestic workers organisation Kalayaan, with the support of the trade union movement, in particular, the Transport and General Workers Union. The law introduced some positive changes to the prior system such as, the introduction of an individual domestic worker visa independent to that of their employers and the freedom to change employers regardless of the reasons. The law also includes some important protection measures such as, the requirement for the employer to complete and sign a statement of the main terms and conditions of the domestic worker and a certification of suitable accommodation together with the application for a work permit.

A regularisation process, between 1998 and 1999, regularised the situation of those domestic workers who could prove having been regularly admitted under the previous system (where change of employer was not allowed) and had left their original employer, often as a result of

The current law includes a number of requirements for eligibility for a domestic workers visa, which are highlighted in the box below.

After the domestic worker is interviewed personally and in absence of the employer, to guarantee that he or she understands the terms and conditions of employment, and if the above-mentioned requirements are fulfilled, an initial one year work permit is issued. The permit can be renewed annually provided that the worker fulfils the same requirements, but the domestic worker is not allowed to change sector of employment for a minimum of 5 years. Labour mobility is, therefore, temporarily restricted to this kind of occupation but workers are allowed to freely change employers, regardless of the reasons for leaving the original employer.<sup>71</sup> The law requires that the change of employer is notified to competent authorities at “the earliest opportunity”, including the reasons for change of employer. A formal application should be processed through the new employer for the renewal of the work permit.

<sup>70</sup> “Overseas domestic workers may include cleaners, chauffeurs, gardeners, cooks, those carrying out personal care for the employer or a member of the employer’s family and nannies if they are providing a personal service relating to the running of the employer’s household.”. See “Immigration Directorates’ Instructions, Chapter 5 section 12, Domestic workers in private households:

<http://www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/IDIs/idischapter5/>

<sup>71</sup> After a review of the process between 1998 and 2000, the criteria allowing free change of employer was incorporated into the Immigration Rules on 18 September 2002. See “Immigration Directorates’ Instructions, Chapter 5 section 12, Domestic workers in private households:

<http://www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/IDIs/idischapter5/>

### Box 11. How do I qualify as a domestic worker in a private household?

In order to come to the United Kingdom as a domestic worker you must:

- be aged between 18 and 65; and
- have been working as a domestic worker in the same house as your employer for at least one year immediately before your application; or
- have been working for at least one year immediately before your application, in a household that your employer uses on a regular basis and there is evidence of a connection between you and the employer; and
- intend to travel to the United Kingdom with your employer, your employer's spouse, or civil partner or your employer's child who is under 18; and
- intend to work full-time as a domestic worker in the house that your employer is living in; or
- intend to work full-time as a domestic worker in a household that the employer uses regularly and you can show that there is a clear connection between you and the employer; and
- not intend to work in the United Kingdom except as a domestic worker; and
- you can support yourself and any dependants without the need for public funds; and
- hold a valid entry clearance for entry within the domestic workers category.

Source: UK Border Agency: <http://www.bia.homeoffice.gov.uk/workingintheuk/domesticworkers/eligibility>

In case the employer leaves the country, the employee is expected to leave also, unless a close family member of the employer wishes to employ her. In any case, after the employer leaves the country, the domestic worker is allowed to stay only until the visa expires. After 5 years of continuous residence in the United Kingdom, domestic workers are allowed, under specific conditions -among which knowledge of the English language and of life in the United Kingdom- to apply for an Indefinite Permit to Remain.<sup>72</sup> Evidence shows that a very low percentage of domestic workers have actually made use of this option in the past years. Domestic worker visas are seldom used as a way to settle in the United Kingdom.

In principle, domestic workers are allowed to apply for an entry visa for dependent family members, provided that she or he can prove to be able to financially support them. Dependents are allowed to work.<sup>73</sup>

Migrant domestic workers have the right to access healthcare services under the national health system.

In spite of the law guaranteeing a certain degree of protection for domestic workers, organisations concerned with the issues continue reporting cases of abuse and exploitation, mostly, but not only, due to a widespread lack of information among domestic workers on their rights and their relative isolation from support networks.

One of the most controversial issues some of the critics are currently raising is the requirement of “non dependency on public funds”. Migrant domestic workers’ rights advocates argue that this requirement excludes abused domestic workers from the right to

<sup>72</sup> UK Immigration Rules, updated Feb 2008, paragraph 159G:  
<http://www.ukba.homeoffice.gov.uk/policyandlaw/immigrationlaw/immigrationrules/>

<sup>73</sup> Home Office UK border Agency website,  
<http://www.bia.homeoffice.gov.uk/workingintheuk/domesticworkers/dependants/>

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access shelters or refugees. Since these facilities are dependant on public funds, they, therefore act as a real deterrent to denouncing abuse. A recent campaign promoted by the organisation Kalayaan specifically focused on this controversial issue and a one day mobilisation was promoted on 23 April 2008.

#### **4.2 Proposed legislative changes and the domestic workers' campaigns**

In March 2006, the Home Office presented a paper to Parliament on the points-based migration system as part of the government's proposal on "making Migration Work for Britain"<sup>74</sup>. Although domestic workers are not specifically mentioned in this strategic paper, a proposal to include them under the proposed Points Based System (PBS) has been presented, for which domestic workers visa would be *de facto* eliminated. Instead, a "domestic assistant" visa –in the form of a modified business visitor visa- will be granted to domestic workers accompanying their employer to the UK for a maximum period of six months. The visa would be non-renewable and would not allow for the possibility to change employers. As a result, settlement in the UK will, therefore, not be contemplated under the proposed legislation. Furthermore, the new system would *de facto* leave domestic workers neither without health care coverage nor in the position to have any effective remedy against violation of labour rights.

Domestic and migrant workers organisations and the trade union movement are fiercely opposing this proposed changed of legislation which, they argue, would bring the situation back to the pre-1998 situation when little, if no right, was guaranteed to this category of workers. The organisation Kalayaan supported by TGWU, TUC Amnesty International UK Anti-Slavery International and the Joint Council for the Welfare of Immigrants, has therefore started a campaign whose main arguments and demands are reported in the box below.

<sup>74</sup> UK Home Office, "A Points-Based System: Making Migration Work for Britain". Presented to Parliament by the Secretary of State for the Home Department, by Command of Her Majesty, March 2006

**Box 12. Concerns raised by Kalayaan concerning United Kingdom's Home office's proposed changes to immigration law and practice for migrant domestic workers**

**Legalising trafficking:**

If the proposals come into force MDWs will have no option to change employer or to renew their visa. This will make it virtually impossible to challenge any maltreatment or abuse, and indeed will encourage it. For example, 32% of MDWs who registered at Kalayaan during 06-07 had their passports withheld by their employer, 24% had been physically abused and 9% had been sexually abused. The removal of any option to challenge or leave an abusive or exploitative employer is in direct contravention to the Home Office stated policy to protect victims of trafficking and to stop trafficking "at source".

**Increase in abuse and illegality:**

Taking away the provision to renew their visa, or to change employers, as well as making employers responsible for seeing that MDWs leave the UK at the end of their stay, further increases the power the employer has over the MDW. There will be increases in levels of abuse and more MDWs will be forced into illegality by escaping abuse where they will be further exploited by employers and others taking advantage of their irregular status.

**Removing access to UK employment law:**

If MDWs are identified as business visitors rather than workers, they will no longer be protected by UK employment law and they will have no way to challenge abuse and exploitation at the hands of their employers.

**Kalayaan's demands that MDWs retain the basic rights already achieved including:**

- retain the right to change employer
- retain the right to apply to renew their visa
- retain the right to apply for settlement after 5 years in approved employment
- continue to be admitted as workers in the UK (not business visitors)

Source: Campaign Statement, October 2007: "Migration must work for workers too", Kalayaan's campaign against the Home Office's proposed changes to immigration law and practice for migrant domestic workers, <http://www.kalayaan.org.uk>

By the end of 2008, no decision had been taken on the domestic worker visa issue. Nevertheless, human and migrant rights advocates' are still mobilised to oppose the proposed changes, which are likely to drastically restrict the rights of regular domestic workers. On the other hand, it is important to highlight that the proposed legislation would only impact a small percentage of migrant domestic workers: those who have entered in a regular situation under the domestic worker visa scheme. Even though evidence shows that exploitation and abuse occurs in this situation, these regular migrant workers have a certain degree of protection under the current legislation. In other cases, domestic workers enter the country irregularly or under student and/or au pair schemes. The irregular migration and labour status have obvious consequences on their vulnerability.



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## Conclusions

Domestic and care work in private households is an expanding area of employment for immigrant women in many European countries. It is and will continue to be a sector with important economic impact on European societies, as well as, a determinant source of employment and income for a growing section of the labour force. Demographic, socio-economic and cultural factors determine a growing need for these services and the existence of an ample, prepared, low cost and flexible female workforce ready to fill the posts in this sector is likely to increase the size and relative importance of this sector.

These factors, together with restrictive migration policy measures that do not take sufficiently into account the labour market needs. Potentially, these actions will continue to fuel the underground, informal economy where domestic work mostly takes place, unless comprehensive strategies are put in place by a variety of actors.

As this report has highlighted, domestic work is currently not perceived nor regulated as proper work. Labour standards granted to the category of these workers are often below the ones enjoyed by other categories of workers. The fact that the work is performed in private household creates also many difficulties, as current labour legislation and enforcement mechanisms are mostly not conceived nor adapted to the private nature of the workplace. An atypical nature is attributable to domestic work because of the personalised character of the employment relationship, the gendered connotation of the tasks performed and the fact that it is often carried out in the grey area of the informal economy through unregulated arrangements. In fact, general labour legislation is generally not adapted either to take into consideration the specificities of this working relationship. The forms of domestic workers can be categorised into several areas: live-in or live out, full or part time, regular or casual work for one or a multiplicity of employers, which complicates matters even further.

The picture is further complicated by the increasing presence of migrant women among domestic workers, for whom the migratory status and employment status are intimately linked. Labour market instruments alone would, therefore, not be enough to analyse and address this growing phenomenon.

European countries rarely have any strategy to deal with the two issues jointly, domestic work and migration, in a comprehensive, coherent way. Furthermore, no homogenous approach exists to an issue that manifests itself in very different ways across Europe: individual countries have so far taken very different policy measures to address the subject.

Even the institutional approach of the European Union is often inconsistent, as in some instances, it puts an emphasis on the security-related/trafficking concerns, while others are more prone to look at the subject from the labour rights perspective. In spite of some important steps marked by the EU over the last years, no concrete measures seem to have taken place to follow up on the EU Parliament discussions of 2005.

Trade Unions and civil society organisations have certainly moved forward to put the issue high on the international agenda. They are currently leading most actions aimed at raising awareness around the subject and concretely to promote the rights of (migrant) domestic workers. Their support and lobby action was a key determinant to the approval of ILO Governing Body, in March 2008, of the inclusion of “Decent work for domestic workers” (Standard setting) in the agenda of the 99<sup>th</sup> Session (2010) of the International Labour Conference.

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Yet the organisation of domestic workers, of informal workers and –even more– of undocumented migrant workers is a rather recent area and one that still raises some controversy even within Trade Unions. Cooperation with migrant self-organisations and NGOs for a consistent policy action could only be seen as beneficial.

As this report has argued, a combination of gender equality, labour and migration policies and norms have to be put in place with the inclusion of several actors being mobilised for the agenda to move forward.

Recognising domestic work as decent work and highlighting its positive contribution to the socio-economic well being of the host societies, the following recommendations could be put forward to national, international and regional actors:

**Promoting the recognition of domestic work as decent work and awareness of migrant women’s participation in the sector:**

- To support all efforts towards the adoption of a common definition of domestic work at the international and European level to serve as a minimum agreeable common denominator for national legislation and targeted policies.
- To promote the collection of statistical evidence and qualitative research on the contribution of domestic work to the European economies, and on migrant women’s participation in the sector.
- To promote measures to enhance the professional and social value of domestic work, in particular through:
  - Specific vocational and professional training programmes to enhance the professionalization of the sector;
  - Policy measures guaranteeing domestic workers equal access to vocational and professional training and access to opportunities of professional mobility;
  - Effective and efficient mechanisms for the conversion and recognition of diplomas obtained in other countries;
  - Awareness campaigns on the economic and social value of domestic work, on the gender differences in the use of time, and on the actual need of a migrant labour force in the sector, that have the purpose to modify perceptions and attitudes.

**Adopting a rights-based approach to migration policies:**

- To set up Joint Labour Committees at the national level in order to discuss the inter-linkages between labour, gender and migration status and the possible policy and legislative measures to adequately protect domestic workers taking into consideration the specificities of their working realities.
- To consider migration policy measures that properly take into consideration the labour market needs in the area of domestic work, while guaranteeing full enjoyment of migrants’ human and labour rights.
- To guarantee migrant domestic workers the right to non-discrimination in access to employment and treatment in the sector and their enjoyment of fundamental human and labour rights in conditions of dignity, equality and freedom irrespective of their migration status.

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- To ensure that temporary work programmes guarantee, after a timeframe of a maximum of two years, labour mobility, in accordance with international standards, and in any case the freedom to change employers in case of exploitation without repercussions on the migration status of the worker.

**Promoting a comprehensive normative framework at the national level:**

- To ratify and adopt relevant international instruments and ensure their effective application and enforcement at the national level;
- To adopt or modify national labour legislation, on the one hand to guarantee domestic workers the same rights and benefits of other categories of workers and eliminate discriminatory legislative provisions, and on the other, to ensure that the specific characteristics of this working relationship are properly reflected and accounted for;
- To put in place at the national level a combination of specific measures, of fiscal, administrative and judicial nature to simplify the registration of contracts, lower the burden of registration on both employer and employees, and strictly monitor compliance to existing regulations.

**Guaranteeing suitable and effective enforcement mechanisms at the national level:**

- To enhance the Labour inspectorate and train labour inspectors so that they are aware about the problems/constraints domestic workers face;
- To adopt proper regulation in employment agencies that recruit domestic workers abroad and enact suitable enforcement mechanisms to monitor their operation;
- To make sure that migrant workers have access to legislative remedies against exploitation and abuse, irrespective of their migration status.

**Promoting an International Legislative Framework:**

- The ILO to conduct a comprehensive legislative review of current labour and migration legislation relevant to domestic work to provide for a complete picture of the global situation.
- The ILO to organise an expert meeting on the subject to provide for the basis for further action in support of the rights of domestic workers.
- The ILO to continue promoting tripartite consultations and provide technical support to constituents in order to support standard setting efforts on the subject.
- Trade Unions to organise a follow up meeting to the April 2005 Conference to continue exchanging national experiences and enhance cooperation to push the agenda forward;

The EU to follow up on the Parliamentary discussion and continues providing technical and financial support to national and regional actions on the subject.

**Promoting organisation and voice**

- Trade Unions to continue campaigning for the organisation of domestic workers and recognition of their rights as workers and for the recognition of their rights, among others, through collective bargaining.

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- Trade Unions to persist in the implementation of the recommendation of the April 2005 Conference, in particular.
    - To explore the need and potential for an international network for the rights of domestic/household workers, being careful not to replicate but to add value to the international networks that already exist (e.g. for migrant domestic workers' rights).
    - To convene, in collaboration with the Global Unions, technical meetings and engage in national and global discussions with employers and governments, with the aim of sharing information and experiences and ensure that the rights of domestic/household workers, whether national or migrants, are effectively addressed by the future ILO Convention.
    - To support the organisation of domestic/household workers at all levels – local, national, regional and international – through:
      - the greater involvement of trade unions at all levels in supporting domestic/household workers and their self-organisation;
      - mapping and liaising with domestic/household workers' organisations and support groups worldwide so as to promote their visibility, capture the magnitude of the effort already being undertaken for domestic/household workers' rights, as well as encourage their involvement in a network;
      - the exchanging information and strategies, for example through a new website dedicated to domestic/household workers' rights;
      - developing education and training programmes for domestic and household workers' groups, unions, associations or networks in strategising, organisation, accessing funding, accounting, etc.
      - studying the potential for further funding domestic/household workers' self-organisations;
      - establishing an urgent appeal mechanism for cases of extreme abuse and exploitation of domestic/household workers;
      - doing further research into the role of domestic/household work including the vast migration of people searching work as domestic workers as (a) an underpinning of neo-liberal globalisation and (b) a function of continuing gender discrimination in household work, so as to help promote the development of far stronger policies at international and national levels for the protection of domestic/household workers and their rights.

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## **Annex I. ILO's International Standard Classification of Occupations (ISCO)**

### ***Draft ISCO-08 Group Definitions: Occupations in Cleaning and Housekeeping***

ISCO 08 Code - 515 : Building and housekeeping supervisors

#### **Lead Statement**

Building and housekeeping supervisors coordinate, schedule, and supervise the work of cleaners and other housekeeping staff in commercial, industrial and residential premises. They take responsibility for housekeeping and caretaking functions in hotels, offices, apartments, houses and private dwellings.

#### **Task statement**

Tasks include:

1. Assigning tasks and inspecting building areas to see that cleaning, housekeeping and maintenance work has been done properly;
2. Issuing of supplies and equipment and inventory stocks to ensure that the supplies on hand are adequate.
3. Screening and hiring of job applicants.
4. Training of new and experienced employees.
5. Recommending promotions, transfers or dismissals.
6. Performing some cleaning and housekeeping and maintenance tasks.

#### **Included occupations**

Examples of the occupations classified here:

- Cleaning and housekeeping supervisors in offices, hotels and other establishments
- Domestic housekeepers
- Building caretakers

#### **Excluded occupations**

Used United States Standard Occupation Classification

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ISCO 08 Code - 5151 : Cleaning and housekeeping supervisors  
in offices, hotels and other establishments

**Lead Statement**

Cleaning and housekeeping supervisors in offices, hotels and other establishments organize, supervise and carry out housekeeping functions in order to keep clean and tidy the interiors and fixtures of hotels, offices and other establishments, as well as of aircraft, trains, buses and similar vehicles.

**Task statement**

1. Engaging, training, discharging organising and supervising helpers, cleaners and other housekeeping staff.
2. Purchasing or controlling the purchase of supplies.
3. Controlling storage and issue of supplies.
4. Supervising general welfare and conduct of individuals in institutions.
5. Sweeping or vacuum-cleaning, washing and polishing floors, furniture and other fixtures.
6. Making beds, cleaning bathrooms, supplying towels, soap and related items.
7. Cleaning kitchens and generally helping with kitchen work, including dishwashing.
8. Restocking minibars and replenishing items such as drinking glasses and writing equipment.

**Included occupations**

Examples of the occupations classified here:

- Housekeeper, hotel
- Matron, housekeeping
- Steward, house

**Excluded occupations**

Some related occupations classified elsewhere:

- Caretaker, building
- Cleaner, domestic
- Housekeeper
- Sweeper, street

**Lead Statement**

Domestic housekeepers organize, supervise and carry out housekeeping functions in private households with or without the support of subordinate staff.

**Task statement**

1. Supervising workers employed in households as domestic staff.
2. Purchasing or controlling the purchase of supplies.
3. Controlling storage and issue of supplies.
4. Assisting in cases of minor injury or illness by performing tasks such as taking temperature, giving medicine, putting g on bandages.
5. Sweeping or vacuum-cleaning, washing and polishing floors, furniture and other fixtures.
6. Making beds, cleaning bathrooms, supplying towels, soap and related items.
7. Taking care of household pets and plants, receiving visitors, answering telephones, delivering messages and shopping for groceries.
8. Preparing and cooking meals, setting and clearing tables and serving food and beverages.
9. Leaning kitchens and generally helping with kitchen work, including dishwashing.

**Included occupations**

Examples of the occupations classified here:

- Butler
- Domestic housekeeper

**Excluded occupations**

**Lead Statement**

Building caretakers take care of apartment houses, hotels, offices, churches and other buildings and maintain them in a clean and orderly condition. They may supervise other workers and contractors depending on the size and nature of the building concerned.

**Task statement**

Tasks include:

1. Supervising the work of cleaning, housekeeping and building maintenance staff and contractors.
2. Participating in cleaning, simple repairs and maintenance of building interiors.
3. Tending furnaces and boilers to ensure provision of heat and hot water.
4. Regulating conduct of tenants and visitors in such matters as noise abatement or misuse of property.
5. Providing small services to absent tenants such as accepting deliveries on their behalf or providing requested information to callers.
6. Notifying management and owners of buildings of the need for major repairs.
7. Patrolling buildings to ensure security is maintained.
8. Filling out registration forms and providing tenants with copies of rules.

**Included occupations**

Examples of the occupations classified here:

- Caretaker, building/cleaning
- Concierge, building
- Janitor
- Sexton

**Excluded occupations**

**Lead Statement**

Laundry machine operators operate laundry, dry cleaning, pressing and fabric treatment machines in laundries and dry cleaning establishments.

**Task statement**

Tasks include:

1. Sorting articles for cleaning according to the type colour, fabric and cleaning treatment required.
2. Placing sorted articles into receptacles and onto conveyor belts for moving to repair and cleaning areas.
3. Checking and removing stains from garments, and replacing buttons and making minor repairs.
4. Loading and unloading washing machines, driers and extractors.
5. Adding cleaning agents and starches to articles.
6. Smoothing articles and guiding them through cleaning and pressing machines.
7. Stopping and starting machines to untangle, straighten and remove articles.
8. Placing articles on shelves and hanging articles for delivery and collection.
9. Packing articles and preparing orders for despatch.

**Included occupations**

Examples of the occupations classified here:

- Machine-operator, dry-cleaning
- Machine-operator, dyeing/textile fibres
- Machine-operator, laundering
- Machine-operator, pressing/laundry

**Excluded occupations**

Some related occupations classified elsewhere:

- Launderer, hand – 9121
- Presser, hand – 9121

**Lead Statement**

Cleaners and helpers perform various tasks in private households, hotels, offices, hospitals and other establishments, as well as in air craft, trains coaches, trams and similar vehicles, in order to keep the interiors and fixtures clean or they do hand-laundering and pressing.

**Task statement**

Tasks include:

1. Sweeping or vacuum cleaning, washing and polishing floors, furniture and other objects.
2. Taking care of linen and bed-making.
3. Cooking and serving meals.
4. Doing various kitchen work and other related tasks.
5. Pressing or laundering textiles by hand.

**Included occupations**

Examples of the occupations classified here:

- Domestic, hotel and office cleaners and helpers
- Vehicle, window, laundry and other hand cleaning workers

**Excluded occupations**

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ISCO 08 Code - 911 : Domestic, hotel and office cleaners and helpers

**Lead Statement**

Domestic, hotel and office cleaners and helpers sweep, vacuum clean , wash, polish, take care of household linen, purchase household supplies; perform various tasks in order to keep clean and tidy the interiors and fixtures of hotels, offices and other establishments, as well as of aircraft, trains, buses and similar vehicles.

**Task statement**

Tasks include:

1. Sweeping or vacuum cleaning, washing and polishing floors, furniture and other objects in hotels, offices and other establishments.
2. Making beds, supplying towels, soap and related item.
3. Helping with various kinds of kitchen work.
4. Cleaning, disinfecting and deodorising kitchens, bathrooms and toilets.

**Included occupations**

Examples of the occupations classified here:

- Domestic cleaners and helpers
- Cleaners and helpers in offices, hotels and other establishments

**Excluded occupations**

- Launderer, hand
- Sweeper, street
- Domestic housekeeper

**Lead Statement**

Domestic helpers and cleaners sweep, vacuum clean, wash and polish, take care of household linen, purchase household supplies, prepare food, serve meals and perform various other domestic duties.

**Task statement**

Tasks include:

1. Sweeping, vacuum-cleaning, polishing and washing floors and furniture, or washing windows and other fixtures.
2. Washing, ironing and mending linen and other textiles.
3. Washing dishes.
4. Preparing, cooking and serving meals and refreshments.
5. Purchasing food and various other household supplies.
6. Cleaning, disinfecting and deodorising kitchens, bathrooms and toilets.
7. Cleaning windows and other glass surfaces.

**Included occupations**

Examples of the occupations classified here:

- Charworker, domestic
- Cleaner, domestic

**Excluded occupations**

Some related occupations classified elsewhere:

- Cleaner, hotel
- Housekeeper
- Launderer, hand
- Sweeper, street

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ISCO 08 Code - 9112 : Cleaners and helpers in offices, hotels  
and other establishments

**Lead Statement**

Helpers and cleaners in offices, hotels and other establishments perform various cleaning tasks in order to keep clean and tidy the interiors and fixtures of hotels, offices and other establishments, as well as of aircraft, trains, buses and similar vehicles.

**Task statement**

Tasks include:

1. Sweeping or vacuum-cleaning, washing and polishing floors, furniture and other fixtures in buildings, coaches, buses, trams, trains and aircraft.
2. Making beds, cleaning bathrooms, supplying towels, soap and related items.
3. Cleaning kitchens and generally helping with kitchen work, including dishwashing.
4. Picking up rubbish, emptying garbage containers and taking contents to waste areas to removal.

**Included occupations**

Examples of the occupations classified here:

- Cleaner, aircraft
- Cleaner, hotel
- Cleaner, office

**Excluded occupations**

Some related occupations classified elsewhere:

- Caretaker, building - 5153
- Cleaner, domestic - 9111
- Housekeeper, domestic - 5152
- Sweeper, street - 9613
- Helper, kitchen - 9412
- washer, dishes - 9412

**Notes**

Workers who perform cleaning and helping tasks only in kitchens and other food preparation areas are classified in Unit Group 9412, Kitchen helpers.

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ISCO 08 Code - 912 : Vehicle, window, laundry and other hand  
cleaning workers

**Lead Statement**

Vehicle, window, laundry and other hand cleaning workers clean windows, showcases or other surfaces of buildings or vehicles and press, launder or dry-clean linen and other textiles by hand.

**Task statement**

Tasks include:

1. Cleaning, washing and polishing cars by hand or machine.
2. Washing windows or other glass surfaces with water or various solutions, drying and polishing them.
3. Laundering and pressing linen, clothing, fabrics and similar articles by hand in a laundry or other establishments.
4. Cleaning by hand and with chemical solutions clothing, fabrics leather goods and similar articles in a dry-cleaning or other establishments.

**Included occupations**

Examples of the occupations classified here:

- Dry-cleaner, hand
- Launderer, hand
- Cleaner, window
- Cleaner, vehicle

**Excluded occupations**

**Lead Statement**

Hand-launderers and pressers launder, press or dry-clean linen and other textiles by hand.

**Task statement**

Tasks include:

1. Laundering and pressing linen, clothing, fabrics and similar articles by hand in a laundry or other establishment.
2. Cleaning, by hand and with chemical solutions, clothing, fabrics, leather goods and similar articles, in a dry-cleaning or other establishment.
3. Replacing buttons and making minor repairs.
4. Placing articles on shelves and hanging articles for delivery and collection.

**Included occupations**

Examples of the occupations classified here:

- Dry-cleaner, hand
- Launderer, hand
- Presser, hand

**Excluded occupations**

Some related occupations classified elsewhere:

- Machine-operator, dry-cleaning
- Machine-operator, pressing/laundry
- Machine-operator, washing/laundry

**Lead Statement**

Vehicle cleaners, wash, clean and polish vehicles.

**Task statement**

Tasks include:

1. Cleaning, washing and polishing cars and other vehicles, by hand or machine;
2. Vacuuming vehicle interiors and dry cleaning carpets and upholstery;
3. Applying cleaning agents to remove stains from vehicle interiors;
4. Washing tyres and wheel arches and blackening tyres;
5. Washing and polishing vehicle windows;
6. Emptying and cleaning compartments in vehicles.

**Included occupations**

Examples of the occupations classified here:

- Washer, hand/vehicle
- Car detailer

**Excluded occupations**

**Lead Statement**

Window cleaners wash and polish windows and other glass fittings.

**Task statement**

Tasks include:

1. Washing windows or other glass surfaces with water or various solutions, drying and polishing them.
2. Using ladders, swinging scaffolds, bosun's chairs, hydraulic bucket trucks and other equipment to reach and clean windows in multi – storey buildings.
3. Selecting appropriate cleaning or polishing implement

**Included occupations**

Examples of the occupations classified here:

- Cleaner, window

**Excluded occupations**

**Lead Statement**

Other cleaning workers clean surfaces, materials and objects such as carpets, walls, swimming pools and cooling towers using specialized cleaning equipment and chemicals.

**Task statement**

1. Cleaning carpets and upholstered furniture using cleaning machines and their attachments.
2. Selecting and applying cleaning agents to remove stains from carpets.
3. Treating carpets with soil-repellent chemicals and deodorants, and treating for pests.
4. Cleaning stone walls, metal surfaces and fascias using high pressure water cleaners and solvents.
5. Applying chemicals and high pressure cleaning methods to remove micro-organisms from water and filtration systems and using wet vacuums and other suction equipment to remove scale, accumulated dirt and other deposits from swimming pools, cooling tower components and drains.

**Included occupations**

- Carpet cleaner
- Swimming pool cleaner
- Graffiti cleaner

**Excluded occupations**

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ISCO 08 Code - 96 : Refuse workers and other elementary workers

**Lead Statement**

Refuse workers and other elementary workers collect garbage from buildings, yards, streets and other public places or keep streets and other public places or perform odd jobs for private households or establishments.

**Task statement**

Tasks include:

1. Collecting, loading and unloading garbage.
2. Sweeping streets, parks and other public places.
3. Chopping firewood.
4. Carrying water.
5. Beating dust out of carpets and performing other odd-job tasks.

**Included occupations**

Examples of the occupations classified here:

- Refuse collector
- Sweeper, park
- Sweeper, street
- Refuse sorter

**Excluded occupations**

**Lead Statement**

Refuse workers collect, process and recycle garbage from buildings, yards, streets and other public places, or keep streets and other public places clean.

**Task statement**

1. Collecting, loading and unloading garbage.
2. Sweeping streets, parks and other public places; Recycling garbage like paper, glass, plastic or aluminium.
3. Recycling garbage like paper, glass, plastic or aluminium.

**Included occupations**

- Refuse garbage
- Refuse sorters
- Sweepers

**Excluded occupations**

**Lead Statement**

Garbage collectors collect and remove rubbish and items for recycling from buildings, yards, streets and other places.

**Task statement**

Tasks include:

1. Collecting rubbish and recyclable materials and locating it into bins and garbage and recycling trucks.
2. Riding on or in garbage and recycling trucks.
3. Lifting garbage bins and emptying contents into trucks and larger containers.
4. Unloading garbage and recycling trucks.

Recycling garbage like paper, glass, plastic or aluminium

**Included occupations**

Examples of the occupations classified here:

- Collector, refuse
- Dustman
- Dustwoman

**Excluded occupations**

- Driver, garbage truck – 8332

**Lead Statement**

Refuse sorters identify and sort discarded items suitable for recycling and place them in designated compartments for sale or later disposal. They may buy these items, look for them at dumpsites or in public places or work in a recycling enterprise.

**Task statement**

1. Collecting items for recycling from domestic, commercial and industrial premises or from public places such as streets.
2. Sorting paper, glass, plastic, aluminium or other recycling materials by type.
3. Placing these items in designated compartments.
4. Identifying and setting aside items of furniture, equipment, machinery, or components which are suitable for repair or re-use.
5. Selling recyclable or reusable materials.

**Included occupations**

**Excluded occupations**

**Lead Statement**

Sweepers and related labourers sweep and clean streets, parks, airports, stations and other public places.

**Task statement**

Tasks include:

1. Sweeping streets, parks, airports, stations and similar public places.
2. Shovelling snow.
3. Beating dust out of carpets by using a carpet-beater.
4. Cleaning rubbish, leaves and snow from driveways and grounds.

**Included occupations**

Examples of the occupations classified here:

- Sweeper, park
- Sweeper, street

**Excluded occupations**

**Lead Statement**

Odd job persons clean, paint and maintain buildings, grounds and facilities, and undertake simple repairs.

**Task statement**

Tasks include:

1. Repairing broken windows, screens, doors, fences, barbecues, picnic tables, shelves, cupboards and other items.
2. Replacing defective items such as light bulbs.
3. Repairing and painting interior and exterior surfaces such as walls, ceilings and fences.
4. Adjusting doors and windows.
5. Replacing tap washers.
6. Putting up handrails and grab rails.
7. Unloading coal or wood and putting it into cellars of private households or establishments.

**Included occupations**

Examples of the occupations classified here:

- Odd-job person
- Handy person
- Hotel Useful

**Excluded occupations**

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## **Annex 2. European Parliament resolution on regulating domestic help in the informal sector (2000/2021 INI)<sup>75</sup> Thursday 30 November 2000**

The European Parliament,

- having regard to the fifth indent of Article 137(1) of the Treaty establishing the European Community,
  - having regard to ILO Convention C.177 on Home Work,
  - having regard to the International Labour Office's International Standard Classification of Occupations, ISCO-88,
  - having regard to its resolution of 4 November 1999<sup>76</sup> on the Commission's draft Joint Employment Report 1999 (SEC(1999) 1386 - C5-0215/1999),
  - having regard to its resolution of 21 September 2000<sup>77</sup> on the Commission Communication on undeclared work (COM(1998) 219 - C5-0566/1998 -- 1998/2082(COS)),
  - having regard to Rule 163 of its Rules of Procedure,
  - having regard to the report of the Committee on Women's Rights and Equal Opportunities (A5-0301/2000),
- A. whereas 'domestic help' is a concept that has not been defined,
- B. whereas the proportion of women in paid employment is constantly increasing,
- C. whereas it is very difficult to ascertain the extent of the black economy and of undeclared domestic
- D. work,
- E. whereas undeclared work has important repercussions on national budgets and residents' incomes,
- F. whereas domestic work, by its very nature, is more likely to involve working flexible or split timetables for a number of different employers while earning minimal salary, which is generally undeclared,
- G. having regard to the number of families in which both parents work full time,

<sup>75</sup> Published in the Official Journal of the European Communities, C 228/193, 13 August 2001

<sup>76</sup> OJ C 158, 7.6.2000, p. 43.

<sup>77</sup> See minutes of the sitting, Part II, Item 13.

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- H. having regard to the increasing number of single-parent families,
- I. whereas there has been a considerable increase in demand for domestic help as a result of changes in family circumstances, work circumstances, the way time is spent and the interests of both men and women,
- J. whereas the demand for such help continues to increase, as does the extent of undeclared working,
- K. whereas there has been an increase in the number of elderly people living alone and needing domestic help,
- L. having regard to the difference in, or indeed lack of, provisions to regulate domestic work in some Member States,
- M. whereas, even in diplomatic missions, employers regularly abuse their status *vis-à-vis* their employees,
- N. whereas there is a need to establish a special legal framework which affords all domestic employees the protection of labour legislation and the subjective rights deriving therefrom,
- O. having regard to the commendable efforts made by certain Member States to set up local or regional organisations to regulate the supply and demand of domestic help,
- P. having regard to the results of the introduction of service employment cheques in France and Belgium,
- Q. having regard to the large number of female migrant workers,
1. Calls for a European definition of domestic work to be drawn up;
  2. Calls on the Member States to draw up and regularly update statistics on undeclared domestic work with a view to obtaining a more accurate picture of the scale of the problem;
  3. Calls on the Member States to conduct a more detailed study of undeclared domestic work and of its costs to and repercussions on national budgets, the employment market and private individuals;
  4. Calls for work of this kind to be recognised as an occupation in its own right;
  5. Takes the view that the domestic work sector in principle falls within the scope of existing directives on employment and occupations and should also be covered by future guidelines to be included in the guidelines on employment with a view to eventually establishing European rules on the social rights of workers, the adjustment of supply and demand in the sector, access to training and co-funding of contributions by the public authorities;
  6. Calls for due account to be taken, when drawing up directives and other legislation, of the specific work situations and employment relationships of domestic workers, including their isolation and their atypical relationship with their employer(s);

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7. Calls on the Member States to involve the social partners closely in the implementation of the guidelines for the domestic work sector;
  8. To improve the image and the status of the occupation of domestic work, recommends that the Member States introduce the following measures:
  9. A definition of the tasks performed, and clear provisions laying down the maximum number of hours to be worked and the limits thereon,
    - specific and comprehensive social security cover for persons pursuing this occupation, which should take account of the wide range and potential hazards of the tasks involved and entitle the worker to social insurance cover and other rights, including a decent pension on retirement,
    - the creation of conditions for ensuring quality jobs by organising professional training courses,
    - the setting up of reception facilities to encourage the integration of such workers into society,
    - awareness raising and information campaigns for employers and employees concerning their rights and duties;
  10. Recommends, as a way of structuring the organisation of the market for paid domestic work, that the Member States introduce a framework by means of, for example, businesses providing domestic services, NGOs and local employment agencies;
  11. To combat the increasing amount of undeclared work in this sector, calls for the introduction of the following measures at national level:
    - adjustment of prices and costs to take account of individuals' financial resources,
    - simplification of administrative formalities with regard to the requirement for private employers to declare their employees,
    - making domestic services tax-deductible to reduce the difference in cost between employing undeclared and declared workers;
  12. Stresses the importance of introducing in all the Member States the principle of declaring all employment relationships;
  13. Stresses the importance of making both employees and employers aware of their rights and obligations under their employment relationship;
  14. Stresses the importance of developing the social dialogue at sectoral level, as this is the negotiating forum that is closest to the problem and thus most likely to generate proposals to combat undeclared work and create new long-term employment; stresses also the need to bring domestic work within the scope of the general framework of labour legislation and associated collective agreements;
  15. Recommends that specialised reception centres be set up for female migrant workers to provide the psychological and psychiatric help required by migrant women who have suffered mental or physical or sexual abuse and any assistance needed to draw up applications to regularise their situation if they have temporary residence permits, as well as help with legal action against persons who have exposed such women to sexual and psychological oppression;

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16. Also calls for such reception centres to distribute information leaflets to provide them with all the information and addresses they require in relation to their residence in the Member State;
  17. Considers that, in the context of recognising domestic work as an occupation, female migrant workers should be eligible for regular work permits;
  18. Recommends that Member States' relevant national bodies consider in detail the specific situation of migrants as domestic employees;
  19. Calls on Member States to link the issue of visas for domestic employees working for diplomats to a guaranteed minimum level of working conditions;
  20. Instructs its President to forward this resolution to the Council, the Commission, the governments and parliaments of the Member States, the social partners and the International Labour Organisation.

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