



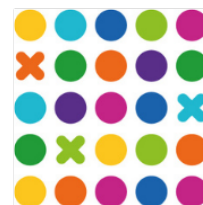
Deliverable No. D 3.3: National and Comparative  
Discrimination Map Reports

# Comparative Care Workers' Discrimination Map Report

Partner: University of Girona

Authors: Ferran Camas Roda, Andrea Cano Redondo, Anna  
Molina García, Marc Saez Zafra; Dolors Juvinyà Canal, Maria  
Antonia Barceló Rado, Michele Mazzetti

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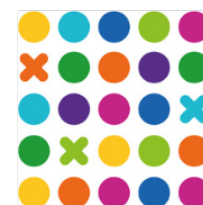
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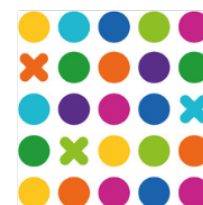
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# 1. Executive summary

This report, corresponding to WP3 of the “CARE4CARE: We care for those who care” research project, examines the care sector, focusing on the discrimination that workers may encounter due to their **gender** or **migrant status**.

This report offers a comparative analysis of six member countries of the Consortium (France, Germany, Italy, Poland, Spain and Sweden), exploring how legislation, collective bargaining, caselaw, public or policy initiatives, activities of institutions, and reports from these bodies address the principle of anti-discrimination concerning care workers. WP3 also scrutinises how national equality bodies have tackled discrimination within the care sector.

CARE4CARE studies a selected group of care workers, namely, care workers in the public and private care sector, and in formal and informal economies, who perform paid work and provide personal assistance and/or health assistance to elderly persons, sick persons, and persons with disabilities. Focus is on care workers who have at most a Bachelor’s degree (i.e., home caregivers, basic care workers, social and care workers, and health professionals with at most a Bachelor’s degree).

The report is structured into two main sections. The first section is dedicated to examining potential gender discrimination within the care sector, employing available data on the presence of women workers.

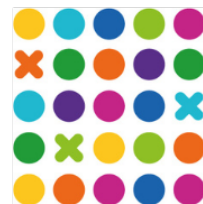
The study investigates whether national legislation aligns with anti-discrimination laws, particularly those derived from European Union directives. It subsequently analyses whether legislation or collective bargaining agreements regulating working conditions in the care sector contain clauses that could be perceived as direct or indirect gender discrimination. This includes an examination of contracts, professional classification, salaries, work-life balance, termination of contracts, and access to social benefits. This analysis is augmented by a review of relevant court rulings within the care sector. Furthermore, the report discusses the efforts of equality bodies on gender equality in the care sector, alongside public body reports addressing this issue. The findings aim to illuminate potential actions to prevent gender discrimination.

The second section mirrors the approach to gender discrimination, focusing on discrimination against workers based on their migrant status. This study begins with an overview of data on the presence of migrants in the general labour market, followed by a detailed look at the care sector. The report analyses the discrimination factors outlined in national legislation, derived from European Union Directives, which form the basis for applying the principle of anti-discrimination to migrants. These factors primarily include racial or ethnic origin and religion, affecting both foreign and national workers. In addition to legislative analysis, the report investigates data on complaints and court rulings related to migrant discrimination.

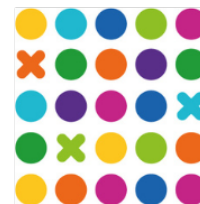
Although it is evident that while discrimination may occur in certain care sector occupations, it seldom leads to legal proceedings or court decisions.

Given the impact of the Covid-19 pandemic in 2020 and the demographic challenges facing our societies, the report also examines measures that could enhance migrants' access to the care sector. As with gender discrimination, this section analyses the work of equality bodies concerning migrant workers in the care sector.

Finally, the report addresses specific issues related to migrant workers in the care sector, including the regulation of workplace harassment and the exploitation regime for migrant workers. This analysis considers current European Directives and recently approved directives pending transposition by Member States. The report seeks



to identify gaps in implementing European non-discrimination Directives as interpreted by the Court of Justice of the European Union.



## 2. Methodology

The University of Girona (UdG) served as the lead partner for Work Package 3 (WP3), responsible for tasks 3.1–3.3, with a particular focus on Task 3.2 and the comparative analysis. Academic partners from the six participating countries (UNIFI, UNI Lund, EUV, RU, UdB, UdS) contributed to tasks 3.1 and 3.3, while EFFE and EFSI played an active role in Task 3.3.

WP3 employed a socio-legal research methodology with a comparative and EU/international perspective.<sup>1</sup> The primary focus was on mapping and addressing discrimination in the care sector based on gender and migratory status. Key areas of investigation included employment contracts, wage remuneration (recognition of the principle of equal pay for equal work or work of equal value), staff classification criteria, work-life balance rights, health and safety from a gender perspective, dismissal regulations, social security registration, access to social security measures (notably unemployment benefits and retirement schemes), and the rights of migrant workers in comparison to other sectors (e.g., work permit renewal and family reunification). The intersectionality of gender and nationality as a driver of inequalities in the care sector was also examined.

In Task 3.1, data collection, research, and analysis were conducted within various national contexts in the EU (M03-M08). This included a legal analysis of antidiscrimination legislation and case law at the national level related to the care sector, as well as an analysis of collective bargaining agreements to identify measures against discrimination. Furthermore, following the legal literature review method, each partner conducted an in-depth study of national doctrine on the relevant topics in this WP.

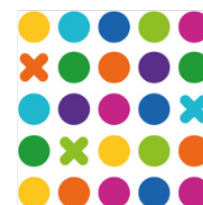
The role of equality bodies in the care sector was investigated through a review of legislation, practices, and consultations to gather sector-specific information (D3.1).

Operationally, UdG prepared a template for the drafting of the national reports accompanying this comparative report. The template was structured in the form of a questionnaire with specific questions relating to the relevant research areas. This report is the outcome of international research collaboration. The comparative analysis is primarily based on the rich information and analysis provided by the following CARE4CARE WP2 national reports:

- the French National Report on ‘Discrimiantion Map’, WP3 (partner: COMPTRASEC – UMR CNRS 5114 – University of Bordeaux, authors: Isabelle Daugareilh, Guillaume, Santoro, Haoussetou Traore),
- the German National Report on ‘Discrimiantion Map’, WP3 (partner: European University Viadrina Frankfurt (Oder), authors: Ziga Podgornik-Jakil, Dominic Andres, Eva Kocher),
- the Italian National Report on ‘Discrimiantion Map’, WP3 (partner: University of Florence, authors: Maria Luisa Vallauri, William Chiaromonte, Giulia Frosecchi, Samuele Renzi, Michele Mazzetti),
- the Polish National Report on ‘Discrimiantion Map’, WP3 (partner: University of Rzeszow, authors: Agata Ludera-Ruszel, Hubert Kotarski),

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<sup>1</sup> Mark Van Hoecke (ed.), *Methodologies of Legal Research. Which Kind of Method for What Kind of Discipline?* (Hart Publishing 2011); Amy Ludlow and Alysia Blackham (eds), *New Frontiers in Empirical Labour Law Research* (Hart Publishing 2015); Bob Hepple and Bruno Veneziani (eds), *The Transformation of Labour Law in Europe. A comparative study of 15 countries 1945–2004* (Hart 2009); Matt W. Finkin and Guy Mundlak (eds), *Comparative Labor Law. Research Handbooks in Comparative Law* (Edward Elgar 2015).



- the Spanish National Report on 'Discrimination Map', WP3 (partner: Universitat de Girona, authors: Ferran Camas Roda, Maria Antonia Barceló Rado, Dolors Juvinyà Canal, Marc Sáez Zafra, Anna Maria Molina Garcia, Andrea Cano Redondo), and,
- the Swedish National Report on 'Discrimination Map', WP3 (partner: Lund University, authors: Mia Rönmar, Jenny Julén Votinius).

These national reports are drafted on the basis of a common questionnaire and written by distinguished experts in the field, who are familiar with the specific national labour law and industrial relations systems, legal cultures, and primary legal sources. In this comparative report, a reference made to a specific national context implies, if not otherwise stated, a reference to the corresponding national CARE4CARE WP2 report. The author of this comparative report is solely responsible for the interpretation of the findings and for any errors or omissions in the text of this report.

After the research phase at national level was completed, a first draft of the 'Discrimination Map' (DM) was circulated among partners, outlining discrimination and the role of equality bodies in the field of care in six EU Member States (France, Germany, Italy, Poland, Spain and Sweden), including the interaction between national and European/international law and policy.

Task 3.2 involved data collection, research, and analysis in a comparative and EU/international context (M08-M13). This task focused on a legal analysis of relevant antidiscrimination provisions and case law at the EU/international level to evaluate their contribution to addressing discrimination in the care sector.

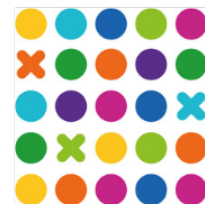
After the completion of Task 3.2, each national partner organised one or more seminars with national stakeholders to discuss the research results of WP2 and WP3, fulfilling Task 3.3. This task involved stakeholder dialogue aimed at research dissemination, exchange of best practices, and policy development (M14-M16).

Stakeholder involvement was robust at both national and EU levels, ensuring comprehensive engagement and feedback.

WP2 and WP3 leaders, with organisational support from TOUR4EU, EFFE and EFSI, hosted a seminar at the EU level involving all partners and stakeholder representatives, including trade unions, family and employer representatives, civil society organisations, and EU/international organisations (approximately 50 participants). This collaboration with the partner leading WP8 facilitated the promotion on social media (D3.2).

Stakeholders' involvement facilitated the revision of national and comparative reports to complete the final draft (D3.3) for Task 3.4 (M16-M18).

This comprehensive analysis provided essential structural variables necessary for conducting activities in Task 4.1 of WP4.



## 3. Conceptualization

In the development of both the national and comparative reports, it became evident that a uniform lexicon was necessary for the mapping of discriminations referenced in WP3. Consequently, this section includes a glossary that provides definitions for the terms employed throughout the research.

### 3.1 Discrimination and harassment

Discrimination and harassment include the notions of direct discrimination, indirect discrimination, and harassment (including sexual harassment).

Direct discrimination occurs when an individual is treated less favourably than another person in a comparable situation based on gender, race, ethnic origin, religion, or belief. Indirect discrimination arises when an apparently neutral provision, criterion, or practice places persons of a particular racial or ethnic origin, gender, religion, or belief at a disadvantage compared to others. However, this is not considered discrimination if the provision, criterion, or practice is objectively justified by a legitimate aim and the means of achieving that aim are appropriate and necessary.

Harassment refers to unwanted conduct related to the sex, or ethnic origin, or religion [...], of a person occurs with the purpose or effect of violating the dignity of a person, and of creating an intimidating, hostile, degrading, humiliating or offensive environment; or in case of sexual harassment, where any form of unwanted verbal, non-verbal or physical conduct of a sexual nature occurs, with the purpose or effect of violating the dignity of a person.

### 3.2 Equality Bodies (or entities for the promotion of equal treatment)

Equality bodies refer to entities that are entrusted with a range of powers (amicable settlement (e.g., mediation or conciliation), litigation, investigations, binding decision-making), depending on the State concerned. These powers, when combined, can sometimes imply a different role: impartiality for some of the powers, and partiality for others (when the equality body sides with the victim).

For instance, in the area of discrimination on the grounds of ethnic origin or race, the legal basis of equality bodies is to be found in *Art. 13 of Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin.*

This article states that:

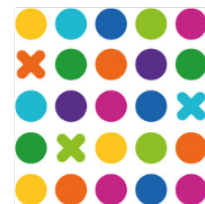
#### *BODIES FOR THE PROMOTION OF EQUAL TREATMENT*

##### *Article 13*

*1. Member States shall designate a body or bodies for the promotion of equal treatment of all persons without discrimination on the grounds of racial or ethnic origin. These bodies may form part of agencies charged at national level with the defence of human rights or the safeguard of individuals' rights.*

*2. Member States shall ensure that the competences of these bodies include:*





- without prejudice to the right of victims and of associations, organisations or other legal entities referred to in Article 7(2), providing independent assistance to victims of discrimination in pursuing their complaints about discrimination, - conducting independent surveys concerning discrimination,

- publishing independent reports and making recommendations on any issue relating to such discrimination.

### 3.3 Undeclared work

Undeclared work is a general and all-inclusive concept to define any paid activities performed by any worker (national or non-national, documented or undocumented) that are lawful as regards their nature but not declared to public authorities, taking account of differences in the regulatory systems of the Member States.

Within the general notion of “undeclared work” other, more detailed, notions can be identified:

**Under-declared employment:** when formal employers pursue the illegal practice of reducing their tax and social security payments, and therefore labour costs, by under-declaring the remuneration of employees. This occurs when employers pay their formal employees two salaries: an official declared salary and an additional undeclared (‘envelope’) wage which is hidden from the authorities for tax and social security purposes. Alternatively, an employer can under-declare the number of hours an employee works, such as to evade paying the minimum wage.

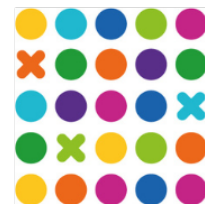
**Envelope wages:** often used in the context of under-declared employment, an envelope wage is a cash-in-hand wage paid by a formal employer to a formal employee in addition to their official declared salary, to reduce their tax and social security payments and therefore labour costs. It arises from an agreement between the employer and employee, and additional conditions may be attached to its payment, which are not in the formal written contract or terms of employment.

**Undeclared self-employment:** paid activity conducted by the self-employed where income is not declared for the purpose of evading either tax and/or social insurance contributions owed. The self-employed may not declare either some or all their income.

**Bogus self-employment:** often referred to as false self-employment or dependent self-employment, this is commonly understood as involving persons/workers registered as self-employed whose conditions of employment are de facto dependent employment. National legislation and/or court decisions determine this status. This employment status is used to circumvent tax and/or social insurance liabilities, or employers’ responsibilities.

### 3.4 Informal economy

Informal economy covers all economic activities that are – in law or in practice – not covered or insufficiently covered by formal arrangements (e.g., unlawful temporary agencies; cooperatives not formally established as legal entities; etc.).

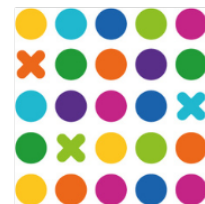


### 3.5 Undocumented migrants (or “irregular migrants”)

An undocumented migrant is non-national (or a third-country national) who enters or stays in a country without the appropriate documentation. Migrants can find themselves as undocumented in one of the following two ways.

Firstly, they may possess documentation that acts as proof of identity, but they do not have documentation that proves their right to enter and stay in the country, or such documentation is fraudulent or no longer valid. In this meaning, this expression is used as a synonym of “irregular migrant” (International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families ((adopted 18 December 1990, entered into force 1 July 2003) 2220 UNTS 3, Art. 5(b)).

Secondly, they may lack any documentation proving their identity their right to enter and stay in the country. Undocumented migrants without any form of identity documentation face greater challenges in accessing services, obtaining residence or work permits, and returning to their countries of origin. Over the long term, they may also risk statelessness if they are unable to obtain any evidence of their nationality.



## 4. Map of discrimination

This comparative report of WP3 of the Project is divided into two large blocks in which it is intended to map, on the one hand, the discrimination that workers in the care sector may suffer, on the one hand because of gender, on the other because the person is an immigrant.

In this sense, in order to carry it out, we have studied the legislation of the different countries participating in the project, court rulings, conflicts that may have appeared in the media, administrative practices or government initiatives such as political strategies, and of course, meetings with entities of the care sector interested in this project.

Our work has always been based on the most current regulations or acts, and for that reason, in this brief introduction, we cannot miss the opportunity to mention the **112th session of the International Labor Conference held this June 2024**<sup>2</sup>, when the final comparative report of WP3, now presented, is being carried out in this project.

Of particular note are the Conclusions of the General Discussion on Decent Work and the Care Economy:

First, in these Conclusions it is stated that the care workforce is heterogeneous. It adds that "While some care workers are highly skilled and well remunerated, many others, especially migrant workers and domestic workers, remain in the informal economy, receive low pay and are excluded, in law or in practice, from protection measures, including social and labor protection". These conclusions are of interest since the Report that follows includes certain considerations that support this assertion.

Also of interest in the Conclusions are its assertions that decent work and the care economy also present other challenges, such as strong occupational segregation on ethnic, racial and gender grounds, and the undervaluation of care work. Indeed, it is clear from the General Discussion on Decent Work and the Care Economy that the burden of paid and unpaid care work borne by women can be highly dependent on race, ethnicity, socioeconomic status and place of origin.

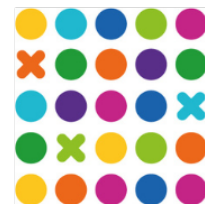
On these and other bases, the Conclusions derived from the 112th session of the Conference, express that considering the principles outlined above, Governments, employers' organisations and workers' organisations, in accordance with their respective spheres of responsibility, with the support of the ILO, should, among other actions:

- promote macroeconomic and employment policies that generate decent jobs in the care economy, including by formalising informal care jobs and enterprises and preventing the informalisation of those that are formal, and ensure sufficient fiscal space;
- preventing and combating all forms of discrimination against care workers, with particular attention to women, migrant workers, racialised groups and people in vulnerable situations.

These comments are quoted here because, to a large extent, some of these considerations emerge from the comparison of the reports presented by the countries participating in the project, and in this sense, they go into some of them in greater depth.

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<sup>2</sup> International Labour Organisation: 112th Session of the International Labour Conference (3-14 June 2024): <https://www.ilo.org/meetings-and-events/international-labour-conference/112th-session-international-labour-conference>



## 4.1 Discrimination on the basis of gender

### 4.1.1 National legislation on gender discrimination in employment

**A study of the different Constitutions of the countries analysed shows that the principle of anti-discrimination is anchored in their regulations.**

The comparative analysis of Constitutions across the studied countries reveals a consistent integration of anti-discrimination principles within their legal frameworks. Legislation has been carefully crafted to align with EU directives on gender discrimination in employment, with particular emphasis on provisions against harassment. Directive 2006/54/EC of the European Parliament and Council (effective from 5 July 2006) mandates equal opportunities and treatment of men and women in employment and occupation, defining harassment and sexual harassment as critical considerations.<sup>3</sup>

Following the legal framework, the reports highlight significant policy initiatives. For instance, the Spanish report discusses the government's new Care Strategy: the State Strategy for a new model of community care - A process of deinstitutionalisation (2024-2030). This strategy emphasises dignity, respect, and non-discrimination, aiming to create safe, nurturing, and supportive environments for individuals requiring care. It incorporates a gender perspective to address disparities in access, use, and control of social resources and services between men and women. Additionally, the strategy adopts an intersectional approach, acknowledging that individuals may face discrimination due to multiple overlapping social categories, such as gender, socio-economic status, disability, or migrant status. This approach informs tailored measures to dismantle barriers experienced by vulnerable population groups.

The discrimination documented in the reports takes various forms in relation to contexts and subjects. In Italy, gender-based discrimination surfaced prominently during a National Stakeholder Meeting, particularly concerning maternity rights. For example, a female employee in a public health institution faced resistance when seeking to transition from full-time to part-time employment due to maternity reasons. Despite legal protections ensuring equal treatment for part-time and full-time working mothers, initial denial by the administration required intervention from labour inspectors and legal recourse for resolution.

Moreover, reports underscore instances of discrimination against foreign workers. For instance in Italy, an Albanian worker encountered harassment and coercive tactics leading to resignation upon return from maternity leave. Despite efforts to address the employer's discriminatory behaviour, procedural limitations hindered effective resolution.

Intersectional discrimination is another significant issue highlighted across reports. As in the case of a Moroccan female workers in Spain wearing the Hijab that encountered considerable workplace challenges due to their ethnicity and religious practices. Such discrimination underscores the complex interplay of gender, ethnic background, and religious identity in shaping individuals' experiences within the labour market.

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<sup>3</sup> Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32006L0054>



In conclusion, these reports collectively affirm the alignment of national legislation with EU directives on gender discrimination in employment. They underscore the importance of robust legal frameworks and policy initiatives in combating discrimination and promoting equality in the workplace

## 4.1.2 Presence of women workers in the care sector

The reports submitted for WP3 consistently highlight the **substantial presence of women in the care sector** across all countries studied.

In some instances, when considering the care sector, notable gender disparities are evident across countries such as Germany, Sweden, and France, where female representation exceeds 80% (the Polish report highlights the sector's high feminization). For instance, the German report underscores that a substantial majority of employees in the German care sector are women (81%–83%), contrasting sharply with the broader German labor market, where men predominate (54% versus 46% women). The report indicates that women dominate across all care occupations except emergency medical services, where three-quarters of employees are men. Women are slightly more represented in outpatient care compared to inpatient care and are more prevalent in elderly care than in medical nursing. The largest number of women in the care sector are employed in nursing in medical care.

Turning to the Report of Sweden, it states that labour market is one of the most gender-segregated across Europe, though this trend is gradually diminishing.<sup>4</sup> The pronounced gender divide has been attributed to the rapid increase in women's labour force participation between the 1970s and 1990s, when a large proportion of Swedish women entered the labour market in already female-dominated occupations, including care workers' occupations.<sup>5</sup> Today, the most common occupation in Sweden is 'assistant nurse in home care, home health care and residence homes for the elderly'. Women make up 89 % of the employees in this occupation. Similarly, except for emergency medical services (*ambulanssjukvårdare*), other occupations in the care sector are heavily female-dominated.<sup>6</sup>

The French report underscores the high feminization of healthcare professions. According to a 2019 survey on the care sector,<sup>7</sup> 86% of nurses are women; 88% of care assistants are women; 94% of home helpers are women. The proportion of female employees in the broader home help, support, care, and services sector is estimated at 95% as of amendment no. 59 of 2023. The majority of employees are women (82.3% in 2015 according to the Dares), with few qualifications (only 7.5% have more than a baccalaureate, compared with 38.4% of all employed people) and an average age higher than that of the working population (46 compared with 41)<sup>8</sup>

Regarding Italy, the report delves into various types of care workers: health professionals with a maximum of a Bachelor's degree, social and care workers, basic care workers, and home caregivers. The Report states that Italian legislation is highly fragmented, particularly concerning the professional roles of Social and Care Workers and

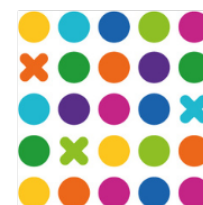
<sup>4</sup> Bagøien Hustad, I., Bandholtz, J., Herlitz, A., & Dekhtyar, S. (2020) 'Occupational Attributes and Occupational Gender Segregation in Sweden: Does It Change Over Time?', *Frontiers in Psychology*, 11; Ellingsæter A. L. (2013) 'Scandinavian welfare states and gender (de)segregation: recent trends and processes', *Econ. Ind. Democracy* 34 501–518.

<sup>5</sup> Melkas H., Anker R. (1997). 'Occupational segregation by sex in nordic countries: an empirical investigation', *Int. Labor Rev.* 136 341–364.

<sup>6</sup> Swedish Occupational Register 2021.

<sup>7</sup> L. Chassoulier, F.X. Dewetter, S. Lemièrre et al. Dewetter, S. Lemièrre et al. IRES report Investing in the care sector - A gender equality issue, IRES, 2023.

<sup>8</sup> E. Kulanthaivelu, L. Thierus, "Les salariés des services à la personne: comment évoluent leurs conditions de travail et d'emploi ?", DARES Résultats, no. 038, p.1



Basic Care Workers. It is also important to mention that during the Italian National Stakeholders Meeting,<sup>9</sup> some employer associations and trade unions emphasised the issue of labour shortages. According to the report, the main cause of these labour shortages has been the numerous turnover blocks introduced by legislation in order to contain public spending on healthcare.<sup>10</sup> The report points out that according to the National Institute for Public Policy Analysis (*Istituto nazionale per l'analisi delle politiche pubbliche*, or INAPP) there were slightly under 618,000 care workers in Italy in 2020, with 68.7% of women and 31.3% of males working in this field.<sup>11</sup> More than 72% of individuals work in healthcare institutions, with nurses and midwives accounting for 59.3%, physicians and dentists for 23.1%, and other carers (social and care workers, basic care workers) for 17.6%.<sup>12</sup>

Finally, the Spanish report highlights the distinction between paid and unpaid care, yet underscores that caregiving responsibilities predominantly fall on women. Many women assume caregiving roles not by choice but due to economic and social pressures. The report also identifies a significant, largely female workforce being diverted to caregiving roles without adequate coverage or recognition. Moreover, it emphasizes that men do not equally share caregiving responsibilities, perpetuating a discriminatory allocation of care duties that reinforces gender inequality. In any case, in relation to family domestic work, according to data from the Ministry of Labour, in 2019 (data will be discussed later, as of 2022) the number of 402,500 people affiliated to the Special System for Domestic Employees was reached, of which 18,000 are men and 384,500 are women<sup>13</sup>. These figures allow us to visualize how this social protection system is intensely feminized, whether we are talking about Spanish nationals or foreigners. In this regard, if we review the statistics corresponding to foreign workers affiliated to Social Security who are registered as workers<sup>14</sup>, it turns out that out of a total of 170,444 affiliated to the Special Family Home System, 10,251 are men and 160,179 are women. On the other hand, the work of domestic workers confirms the increasing presence of migrant workers in the context of a process of progressive replacement of native women, as will be demonstrated later with the data on this subject recorded to date.

In summary, these reports underscore common themes such as the predominant presence of women in the care sector across Europe. They also highlight challenges related to informal employment practices and the integration of migrant populations, particularly within domestic services. These findings underscore the urgent need for comprehensive policies addressing gender equality, labour rights, and social protections within the European care sector.

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<sup>9</sup> The Care4Care project methodically engages stakeholders, including trade unions, employers' associations, and civil society organizations, at both national and EU levels. The primary objective is to gather different perspectives, insights, suggestions, and crucial information to enrich and update the research report. In Italy, the national stakeholder meeting was held on 10 April 2024 in Rome, while the European-level discussion took place on 17 April 2024 in Brussels. These meetings served as crucial moments to engage stakeholders, ensuring that their voices are heard and that their insights contribute significantly to the project outcomes.

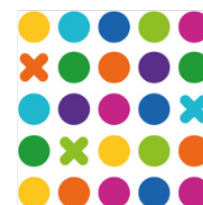
<sup>10</sup> FNOPI, 'Scheda sulla professione infermieristica' (n 24).

<sup>11</sup> Luisa D'Agostino and Alessia Romito, 'L'evoluzione Del Mercato Del Lavoro Del Comparto Sanitario Nel Contesto Della Digitalizzazione Dei Servizi e Delle Prestazioni' (Istituto nazionale per l'analisi delle politiche pubbliche - INAPP 2023).

<sup>12</sup> *ibid.*

<sup>13</sup> Spain: Ministry of Inclusion, Social Security and Migration: Social Security Affiliations [HTTP://WWW.MITES.GOB.ES/FICHEROS/MINISTERIO/ESTADISTICAS/ANUARIOS/2019/AFI/AFI.PDF](http://www.mites.gob.es/ficheros/ministerio/estadisticas/anuarios/2019/afi/afi.pdf)

<sup>14</sup> Spain: Ministry of Inclusion, Social Security and Migration: Social Security Affiliations [HTTP://WWW.MITES.GOB.ES/FICHEROS/MINISTERIO/ESTADISTICAS/ANUARIOS/2019/AEX/AEX.PDF](http://www.mites.gob.es/ficheros/ministerio/estadisticas/anuarios/2019/aex/aex.pdf)



### 4.1.3 Provisions in Legislation or Collective agreements on employment contracts, occupational classification, wages, health and safety, termination of the contract or social benefits in the care sector

A) In general terms, the different reports show that there are no special regulations that distinguish employment contracts in the care sector. In other words, the definition and meaning of an employment contract are the same in the care sector as in other sectors. There are no specific provisions on employment contracts with regard to gender.

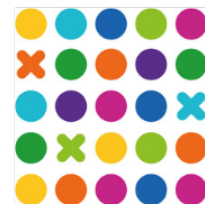
In Italy, Germany and Spain **"special" regulations on occupations specific to the care sector** applies to parents. In France, such a specialisation is recognised within the care sector, primarily through collective bargaining. National collective agreements emphasise the unique environment of the employer's or user's home where the worker is employed. They highlight the importance of accountability and loyalty among staff, particularly to prevent the exploitation of vulnerable individuals receiving care.

The Italian report refers to the *libretto di famiglia* (family booklet). This family booklet is a particular form of employment contract that lies halfway between self-employment and subordinate employment, allows non-entrepreneur natural persons to manage operations relating to occasional work (registration, deposits, baby-sitting bonus and reimbursements) carried out by self-employed persons. The family booklet is a prefinanced nominative payment booklet consisting of payment slips with a nominal value of €10.00, aimed at paying for work activities lasting no more than one hour. The activities that the user can remunerate by means of the family booklet are specified by law and consist of minor domestic work, including gardening, cleaning or maintenance work; home care for children and elderly, sick or disabled persons; private lessons. In any case, there is no maternity protection for occasional work paid with the family booklet. Until 31 December 2025, employers hiring or converting domestic workers to indefinite contracts for assisting elderly individuals aged at least eighty years, already receiving the accompanying allowance, are granted a 100% exemption from total social security contributions and insurance premiums for up to 24 months.

German Report points out that there are special regulations for the care sector in the Working Hours Act, for instance, the general rest period after the end of the daily working time can be reduced from eleven hours to ten hours for care workers according to section 5 (2) if this reduction is compensated by the extension of another rest period within one month. Section 5 (3) codifies an exception for on-call duty specifically created for care workers: Interruptions made during on-call duty can be compensated for at other times if the interruption does not exceed half of the rest period.

Similarly, the Spanish report indicates that no specific provisions have been identified regarding employment contracts in the care sector that differ from contracts in other productive sectors. However, it is noteworthy that within the realm of domestic service, the employment relationship between the worker and the head of the household is considered "special," governed by specific regulations distinct from those of ordinary employment regimes. Nevertheless, there has been a legal trend towards unification of these contract types, particularly evidenced by the abolition of the non-causal annual temporary contract that was applicable in this sector until 2022, and its alignment with the provisions of the Workers' Statute concerning temporary contracts.

The Spanish report highlights initiatives by the government aimed at incentivising hiring in two specific contexts: firstly, within the "family context," and secondly, for caregivers within large families. These initiatives involve granting bonuses to employers who hire in these categories, effectively reducing the tax or Social Security contributions required for such employment. When it comes to hiring a carer within the framework of large



families, the law states that carers are considered to be "natural persons in the service of the family home in which the object of their special employment relationship is constituted by services or activities provided in the home of large families that are officially recognised as such under said law, and which consist exclusively of the care or attention of the members of said large family or of those who live in the home of the same, The latter may be verified by means of the corresponding inspection" (see the Sixth Final Provision of *Royal Decree-Law 2/2024, of 21 May, adopting urgent measures to simplify and improve the level of unemployment protection assistance, and to complete the transposition of Directive (EU) 2019/1158 of the European Parliament and of the Council of 20 June 2019 on reconciling family and working life for parents and carers and repealing Council Directive 2010/18/EU*).

To conclude, no legal regulations have been found that differentiate between employment contracts in the ordinary field (those performed by a worker in any sector) and the care sector. In countries such as Spain, in recent years there has been a unification of the types of employment contracts between the common and ordinary work and those performed in domestic work.

B) Regarding whether legislation or collective agreements provide for a system of **occupational classification** in the care sector, it has not been identified that specific professional classification systems exist in either legislation or collective bargaining agreements. No evidence of gender bias in occupational classification has been detected.

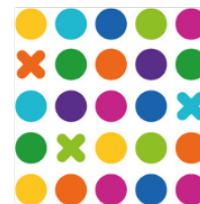
However, this issue can be viewed in relation to the question of whether the regulations or collective bargaining affecting the care sector recognize in any way the important presence of women in this sector or in any of the occupations. Most countries take a general perspective applicable to both genders. Yet, some, like Sweden and France, use neutral language for workers in the care sector. In Spain, specific legislation on domestic work recognises the significant female presence in the sector, addressing potential discrimination issues. Nevertheless,, collective agreements in countries such as Spain do not reflect the significant feminization of the sector.

To sum up, regarding occupational classification, a common observation is that gender is irrelevant for the professional classification of workers. Nonetheless, reports, such as the German one, note that while there are no gender biases in legislation and collective bargaining agreements, empirical data show differences in pay between men and women with the same qualifications. For instance, in Germany, in the occupational subgroup nursing without specialization, the median pay of full-time male nursing employees in 2022 was 3,956 EUR, while it was only 3,771 EUR for female nursing employees; in elderly care, it was 3,452 EUR for men and 3,283 EUR for women. Meanwhile, reports from Poland suggest certain care occupations are gender-specific, with "nursing" being predominantly female. Occupational classification in the care sector, adheres to gender-neutral rules.

The Swedish report refers to the fact that some occupations in the care sector are clearly distinguished from others in that they require a license from the National Board of Health and Welfare, which also functions to classify these occupations. This applies to nurses and assistant nurses, who must produce a university diploma from a nurse programme or, for assistant nurses, an upper secondary school diploma from a health and care programme. However, Care assistants and personal assistants for persons with a disability are not covered by a license requirement.

Finally, the Spanish Report concludes that collective agreements provide for a classification system with respect to the work carried out in any case. For instance, the *Agreement on care services for dependent people and the development of the promotion of personal autonomy*, which cover all the Spanish State, categorises roles based on the function that is carried out, and where they are carried out (in a home for the elderly, home help, telecare). In short, it does exist, and it presents a classification of care work, but it is based on the professional activity and not on the gender of the person who carries it out.





C) Regarding wages and particularly **minimum wages in the care sector**, it is important to note Directive (EU) 2022/2041 as a foundational document. This Directive aims to establish a framework ensuring: a) adequate statutory minimum wages that provide for decent living and working conditions; b) promotion of collective bargaining for wage-setting; c) enhanced access for workers to minimum wage protection as stipulated by national law and/or collective agreements<sup>15</sup>.

The Italian report indicates that Italy does not set a statutory minimum wage by law. Generally, remuneration is determined freely by the parties involved. Remuneration is generally determined through collective bargaining, historically leading to progressive national wage increases. However, Italian case law has expanded the application of collective agreements' wage sales to all workers employed in a specific sector under Article 36 of the Constitution. The adoption of Directive 2022/2041 on adequate minimum wages in the EU does not oblige member states to introduce statutory minimum wages, nor does it establish a common threshold valid throughout the EU. It merely establishes some criteria to ensure minimum wages, above the subsistence threshold, considering the cost of living and purchasing power of the relevant member state. The two alternative ways to achieve this are to set a statutory minimum wage or to extend the coverage of collective bargaining. This coverage will have to reach 80% also, if necessary, through an action plan under EU monitoring. Notably, neither collective bargaining nor legislation in Italy includes provisions for gender-differentiated pay structures. Anti-discrimination laws and the principle of equal treatment prohibit gender-based salary discrepancies.

In Germany, the Sixth Nursing Working Conditions Ordinance prescribes minimum wages for the care sector, varying by occupational classification. The collective agreements for the public sector - are prevalent in the care sector - further differentiate according to occupational classification. Moreover, Sec. 2 (1) 6. *PflegeArbbV* differentiates the minimum wage according to the level of training (nursing assistants without a degree, nursing assistants with one-year training, and nursing professionals with three years of training and a state examination) and their work experience. Collectively agreed wages in other sectors are mostly structured similarly to wages in the care sector: payment is based on tasks, education/qualification level and work experience. Even though these three characteristics are referred to with varying intensity, structural differences are not discernible.

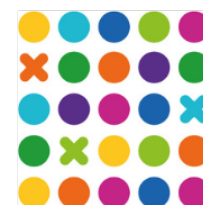
In the Act on the method of determining the basic remuneration of certain employees employed in healthcare entities (Act of 8 June 2017, Journal of Laws from 2022, item 2139), Poland stipulates a general statutory minimum wage for employees in the health sector. For all other care employees not employed in healthcare entities, the minimum wage is regulated in the Act on minimum remuneration, that since July 2023 shall be monthly 3.600 PLN (amount 807 EUR, Act of 10 October 2022, Journal of Laws from 2020, item 2207).

Sweden lacks statutory regulation of wages, including a statutory minimum wage. Wages are set within the framework of sectoral collective bargaining with extensive elements of local wage agreements and individual wage setting. Wages may not be determined on the basis of gender, and collective agreements must be in accordance with the requirements in the Discrimination Act (2008:567).

France upholds the principle of equal pay for equal work or work of equal value (the notion of "equal value" is defined in article L. 3221-3 of the French Labor Code), enshrined in legislation since 1972. Although the pay gap has narrowed steadily over the last 25 years (from 22.1% in 1995 to 15.5% in 2021 for comparable working hours

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<sup>15</sup> Directive (EU) 2022/2041 of the European Parliament and of the Council of 19 October 2022 on adequate minimum wages in the European Union: <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32022L2041>



and jobs), significant differences remain due to the fact that women are more likely to work part-time, and to the gendered distribution of occupations and lower-paying jobs<sup>16</sup>.

In Spain, domestic workers in family homes are subject to specific minimum wage regulations distinct from other sectors. This difference applies exclusively to domestic workers who work on an hourly basis, on an external basis. In this case, according to Royal Decree 1620/2011, the minimum reference wage will be the one established in the royal decree setting the minimum interprofessional wage for temporary and seasonal workers and domestic employees annually, which includes all remuneration concepts. This minimum wage shall be paid entirely in cash, in proportion to the hours actually worked. In this regard, based on Royal Decree 99/2023, of February 14, 2023, which sets the minimum interprofessional wage for 2023, in particular its article 4, it is foreseen that the minimum wage for domestic employees will be 8.45 euros per hour actually worked. The Randstad study on salary trends (2024) in Spain<sup>17</sup> shows salary rates in the health sector (care is excluded from the scope) highlight varying pay rates for roles like nurses and nursing assistants, ranging from EUR 16,000 to EUR 52,000 annually depending on experience and location.

In summary, minimum wage frameworks vary across countries, established either through collective bargaining agreements or legislative mandates. However, principles of equal pay for work of equal value are uniformly upheld, aiming to mitigate gender-based wage disparities across the care sector.

D) The issue of **contract termination in the care sector** reveals contrasting approaches across Europe, reflecting varied legal frameworks and judicial interpretations.

In Italy, domestic workers and home caregivers are exempt from statutory protections against dismissal (Article 62 of Legislative Decree No. 151 of 26 March 2001 and Articles 2240 and 2244 of the Civil Code). This allows for termination at will, without formal procedures, even during maternity.

Conversely, Spain implemented a 2022 reform abolishing unrestricted termination by employers of domestic workers. Now, termination is permissible only under specific circumstances such as economic constraints or a substantial change in family needs, or due to the worker's conduct affecting the employer's trust.

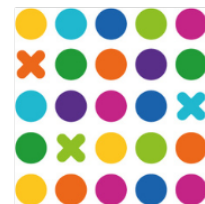
Legal cases underscore the significance of termination practices in the care sector. For instance, in Italy, the Catanzaro Court of Appeal (6 May 2014, No. 676) ruled on a case involving a female employee dismissed by a private clinic. The dismissal, part of a collective redundancy process, was deemed discriminatory due to gender bias in the classification of employees. The court upheld the employee's appeal, highlighting discriminatory criteria used in her dismissal.

Another case is German. In 2021, the Regional Labour Court in Mecklenburg-Vorpommern addressed a case where a professional nurse working for a disabled person faced contract termination due to the employer's death. Pregnant at the time, she argued against the termination citing maternity protection laws (Sec. 17 MuSchG), but the court upheld the contract's fixed-term nature, resulting in dismissal. In Spain, the Supreme Court Judgment of January 29, 2020 (Appeal No.: 2401/2017) involved a domestic worker dismissed by her employer, which was initially ruled unfair and later nullified due to pregnancy discrimination. The court awarded increased compensation, though it did not reinstate the worker or reconsider the nature of the dismissal under applicable laws.

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<sup>16</sup> See Insee Focus, March 2023, No. 292. Ph. Roussel, Femmes et hommes, l'égalité en question", ed. 2022, Insee.

<sup>17</sup> See Randstad: *Informe de Tendencias Salariales*, 2024.



These cases highlight the judicial nuances and protections (or lack thereof) regarding termination in the care sector across Europe. While Italy maintains flexible dismissal rules for domestic workers, Spain and Germany illustrate evolving legal protections and judicial interpretations, particularly concerning discriminatory dismissals and maternity rights. These examples underscore the complexities and disparities in legal frameworks governing employment termination within the care sector across different European jurisdiction

E) When examining **unemployment benefits**, significant disparities emerge across Europe, as illustrated by various national reports. Italy's report highlights a notable issue concerning domestic workers and home caregivers. Legislative Decree No. 22 of 4 March 2015 mandates a stringent condition for accessing unemployment benefits: individuals must have worked for at least 30 days in the 12 months preceding job termination. This criterion disproportionately affects domestic workers, who often face challenges in proving their work attendance due to the nature of their roles. The calculation method, based on conventional wages and hourly thresholds, further complicates access to benefits for part-time domestic workers, reinforcing inequalities within the sector.

This Italian regulation potentially conflicts with European directives, particularly in its implications for indirect discrimination based on gender. The Court of Justice of the European Union, in its landmark judgment of February 24, 2022 (Case C-389/20, CJ v Tesorería General de la Seguridad Social), ruled that similar exclusions from unemployment protection could constitute indirect discrimination under Directive 79/7/EEC. This ruling stemmed from a case in Spain, highlighting systemic gender disparities within care work sectors predominantly staffed by women.

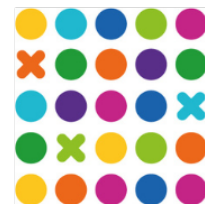
G) In addressing provisions for women's **occupational safety and health**, it is crucial to note that the care sector, particularly in domestic service (or the provision of services for family homes), is frequently characterised by menial, precarious, poorly remunerated, and socially undervalued positions. Many roles within this sector are not adequately recognised or valued by society.

It is essential to highlight data from the Report on Spain,<sup>18</sup> which reveals a high incidence of work incapacity due to health issues within the care sector. Contributing factors include the inadequate recognition by many female caregivers of the physical demands of their work and a lack of training on managing both the physical and psychological aspects of caregiving. This lack of awareness and preparation significantly increases the risk of workplace accidents.

Moreover, well-documented issues such as health burnout—prevalent among geriatric workers due to the low expectations of patient recovery—and the general stress associated with caregiving, particularly for severely ill or disabled patients, further exacerbate these challenges. Additionally, psychosocial risks in the workplace, including violence, harassment, and stress, further compound the difficulties faced by caregivers in this sector.

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<sup>18</sup> M. Ángeles Durán: *La riqueza invisible del cuidado*, Universitat de València, 2022, p. 446



#### 4.1.4 Provisions in Legislation or Collective agreements for reconciling work and family life<sup>19</sup>

Across the countries analysed in this project, **legislation addressing the balance between work and family life generally applies universally, without specific provisions tailored exclusively to the care sector.**

Reports from Germany, Spain, and Poland indicate that regulations concerning work-life balance apply broadly across sectors, including the care sector. Notably, in Spain, public authorities encourage care facilities for individuals with disabilities to implement measures facilitating work-life balance for their staff. This initiative supports new service provisions under public agreements, promoting conditions conducive to the reconciliation of work and family life.

In France, the 2018 agreement on quality of life at work and professional equality within private hospital NCCs emphasises practical measures for balancing work, family, and personal life. Recommendations include flexible meeting schedules and adaptations for night workers transitioning to day shifts, enhancing overall working conditions and accommodating family responsibilities. These provisions, however, do not specify gender-based considerations exclusively for women in the care sector.

Similarly, Sweden's report highlights that while specific rights regarding work-life balance do not explicitly target female care workers, court cases have addressed issues of discrimination, particularly concerning parental and caregiving responsibilities. Notably, cases have examined dismissals related to caregivers' family obligations, underscoring legal protections but not gender-specific legislative measures.<sup>20</sup>

In Spain, while legislation lacks explicit provisions for written leave of absence tailored to care workers, the transposition of EU Directive 2019/1158 aims to enhance work-life balance for parents and caregivers. This includes the introduction of non-transferable parental leave, designed to encourage gender equality in caregiving responsibilities.

In conclusion, the absence of specific legal provisions or court cases focusing on work-life balance for women in the care sector across the analysed countries indicates a generalised approach to legislative frameworks. While collective agreements may offer some flexibility, the overall lack of targeted measures suggests potential challenges in reconciling care work with family responsibilities. Addressing these issues requires comprehensive public resources and broader societal engagement to promote gender equity in caregiving roles and facilitate a more balanced distribution of work and care responsibilities.<sup>21</sup>

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<sup>19</sup> As a basis for dealing with this issue, Partners have referred to Directive (EU) 2019/1158 of the European Parliament and of the Council of 20 June 2019 on work-life balance for parents and carers. Article 1 of this Directive sets forth minimum requirements aimed at achieving equality between men and women in terms of labour market opportunities and treatment at work. It seeks to facilitate the reconciliation of work and family life for workers who are parents or carers by establishing individual rights related to: a) paternity leave, parental leave, and carer's leave; and b) flexible working arrangements for workers who are parents or carers.

<sup>20</sup> Swedish Labour Court judgement AD 2003 No 70.

<sup>21</sup> CES : <https://www.ces.es/documents/10180/5282746/Inf0122.pdf/8283bf1c-0f10-1f2d-7e55-444949c4def1>



## 4.1.5 Presence, role and effectiveness of Equality Bodies in relation to the rights of workers in care occupations<sup>22</sup>

Equality Bodies have prioritised examining workers' rights within care occupations to enhance the recognition and value of these roles, as seen in France. The French Report underscores the systemic undervaluation of jobs predominantly held by women, emphasising the need for proactive measures under the principle of 'equal pay for work of comparable value'. This includes efforts to elevate the status of personal service professions through improved income, working conditions, social protections, training opportunities, and overall recognition.

The French Report highlights initiatives such as the guide by the Defender of Human Rights and the High Council for Professional Equality.<sup>23</sup> These resources address the undervaluation of female-dominated professions, advocating for policies that promote equality across various dimensions. Additionally, the Clersé-CGT report supports these findings,<sup>24</sup> citing feedback from a consultation titled "Mon travail le vaut bien" ("My job is worth it"),<sup>25</sup> where nurses and care assistants expressed pride in their work but stressed the importance of implementing effective measures for gender equality.<sup>26</sup> Recommendations include regular evaluations of equality measures by companies, administrations, local authorities, and hospital facilities.

Apart from Equality Bodies' reports, other documents offer valuable insights. Notably, the Spanish Report includes findings from the Economic and Social Council's publication on Women, Work, and Care: Proposals and Future Perspectives.<sup>27</sup> This report highlights significant information gaps, as official data often lack gender disaggregation and qualitative analyses, impeding accurate diagnoses of women's situations across sectors. The report stresses that making women's specific issues visible is crucial for designing effective solutions. It recommends that statistical agencies improve the production and updating of sex-disaggregated data to better understand women's realities in areas such as time use, income, Social Security affiliation, health, healthcare access, entrepreneurship, digitalisation, science and technology, and social protection.

Additionally, incorporating a gender perspective in all research, including qualitative analysis, is essential to capture the full scope of women's experiences and identify persistent inequalities.

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<sup>22</sup> Methodologically it is noteworthy that the national reports from each country were issued prior to the approval of the two new Equality Bodies Directives (Council Directive (EU) 2024/1499 of 7 May 2024 on standards for equality bodies covering equal treatment irrespective of racial or ethnic origin, religion or belief, disability, age, or sexual orientation, as well as equality between women and men in social security and access to goods and services, amending Directives 2000/43/EC and 2004/113/EC; Directive (EU) 2024/1500 of the European Parliament and of the Council of 14 May 2024 on standards for equality bodies focusing on equal treatment and opportunities between women and men in employment and occupation, amending Directives 2006/54/EC and 2010/41/EU).

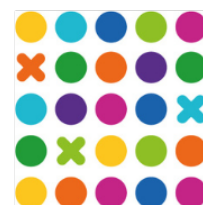
<sup>23</sup> Défenseur des droits, *Guide pour une évaluation non discriminante dans les emplois à dominance féminine*, 2013.

<sup>24</sup> L. Chasoulier, S. Lemièrre, R. Silvera, *Investir dans le secteur du soin et du lien aux autres*, Clersé-CGT, 2023, p. 172 et seq.

<sup>25</sup> See in particular L. Chasoulier, S. Lemièrre, R. Silvera, *op. cit.*

<sup>26</sup> Défenseur des droits, 10<sup>e</sup> baromètre, *op. cit.*

<sup>27</sup> CES : <https://www.ces.es/documents/10180/5282746/Inf0122.pdf/8283bf1c-0f10-1f2d-7e55-444949c4def1>



## 4.2 Discrimination on the basis of migrant status

### 4.2.1 National legislation against discrimination on the grounds of race or ethnic origin, religion or belief, in the field of employment or occupation<sup>28</sup>

Anti-discrimination legislation in the partner countries aligns with EU Directives 2000/43/EC and 2000/78/EC, focusing primarily on ethnicity, religion, or belief. Notably, **migrant status is not uniformly recognised as a discriminatory factor across these legal frameworks**. Spain, however, acknowledges migrant status as a significant barrier to employment, highlighting it as a factor of vulnerability.

Starting with the Constitution, Italian labour law incorporates specific anti-discrimination provisions, albeit without a comprehensive framework. Discrimination based on ethnicity, religion, and other factors is addressed through various legal provisions. The Italian labour legislation, for instance, protects care workers under employment contracts from discriminatory practices.

Poland's Constitution guarantees equality before the law and prohibits discrimination based on race, ethnic origin, and religion. The Labour Code extends anti-discrimination protection to care workers across healthcare entities, ensuring equitable treatment in employment.

Sweden imposes a constitutional obligation on public entities to combat discrimination based on skin colour, national or ethnic origin, language, or religion. However, immigrant status is not explicitly protected under the Discrimination Act, which instead focuses on broader principles of equal treatment and non-discrimination.

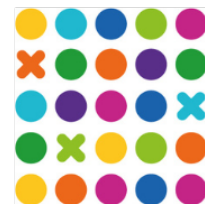
Starting with the Constitution, French law prominently prohibits discrimination based on race or origin, explicitly listing criteria such as ethnic origin, colour, or membership in national minorities. This comprehensive approach extends to various legal contexts, ensuring equality and non-discrimination, particularly within care services.

Spanish legislation includes robust anti-discrimination measures in labour and criminal law. Royal Legislative Decree 2/2015 and subsequent amendments establish severe penalties for discriminatory acts. The transposition of EU Directives into national law through Law 62/2003 and its 2022 amendment, Law 15/2022, provides comprehensive protection against all forms of discrimination. This includes expanding protection to socio-economic status, health conditions, and other personal or social circumstances.

In conclusion, while EU Directives 2000/43/EC and 2000/78/EC set a common foundation for anti-discrimination legislation across member states, there are variations in implementation and scope. Each country studied demonstrates a commitment to combating discrimination, with distinct legal frameworks and protections. Spain's

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<sup>28</sup> As a legal basis for addressing this issue, Partners have considered the Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation. This Directive aims to combat discrimination on the grounds of religion or belief, disability, age, or sexual orientation in employment and occupation, with the objective of implementing the principle of equal treatment in the Member States. Additionally, the Council Directive 2000/43/EC of 29 June 2000 implements the principle of equal treatment between persons irrespective of racial or ethnic origin. This Directive provides a framework for combating discrimination based on racial or ethnic origin, aiming to enforce the principle of equal treatment across Member States.



recent legislative updates exemplify proactive measures to broaden anti-discrimination safeguards, establishing a robust framework for equality legislation within the European Union.

## 4.2.2 Legislation concerning the rights and duties of third-country nationals of the EU

All EU countries have specific regulations governing the access of foreigners to their respective states. These regulations often aim to favour qualified immigration while preventing the exploitation of migrants.

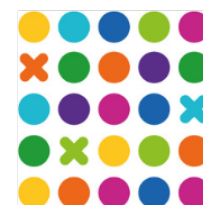
In 2024, the **Directive 2024/1233/EU of the European Parliament and of the Council, of 24 April 2024** concerning a single application procedure for a single permit for third-country nationals to reside and work in the territory of a Member State and on a common set of rights for third-country workers legally residing in a Member State (recast) has been approved. Article 1 of the Directive provides for the establishment by the Directive of a "common set of rights for third-country workers legally residing in a Member State, irrespective of the purpose of their initial admission to the territory of that Member State, based on equal treatment with nationals of that Member State". Directive 2024/1233/EU established extended areas for equality, namely "employment and working conditions, including as regards pay, dismissal, working hours, leave and vacations, and equal treatment of men and women, as well as health and safety at work"; in addition also the "right to strike and to take industrial action, in accordance with the national law and practice of the Member State, and to freedom of association, affiliation and participation in organisations of workers or employers or in any professional organization, including the rights and benefits which such organisations may confer, such as the right to negotiate and conclude collective agreements, without prejudice to national provisions relating to public policy and public security"<sup>29</sup>.

Directive 2024/1233/EU repeals Directive 2011/98/EU of the European Parliament and of the Council of 13 December 2011 establishing a single application procedure for a single permit for third-country nationals to reside and work in the territory of a Member State and establishing a common set of rights for third-country workers legally residing in a Member State. The national reports were compiled under Directive 2011/98/EU as transposed into national law.

Certain national reports highlight issues of interest regarding immigration legislation. For example, the report from Italy focuses on Legislative Decree No. 286 of 25 July 1998 (Consolidation Act on Immigration), which is the cornerstone of the country's immigration system and has been continually and progressively tightened. Beneficiaries of international protection are granted unlimited access to the national labour market. In contrast, asylum applicants are permitted to work only after sixty days from the submission of their application for international protection, provided the application has not yet been processed and the delay is not attributable to the applicant. Additionally, the residence permits issued under these circumstances cannot be converted into residence permits for work purposes (Article 22, Legislative Decree No. 142 of 18 August 2015). Moreover, the Italian report notes that no specific incentives are provided to facilitate labour market access for asylum seekers, international protect

According to the German report, the rights and obligations of EU third-country nationals are regulated by the Immigration Act (*Gesetz zur Steuerung und Begrenzung der Zuwanderung und zur Regelung des Aufenthalts und der*

<sup>29</sup>Directive (EU) 2024/1233 of the European Parliament and of the Council, of 24 April 2024, on a single application procedure for a single permit for third-country nationals to reside and work in the territory of a Member State and on a common set of rights for third-country workers legally residing in a Member State: [https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=OJ:L\\_202401233](https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=OJ:L_202401233)



*Integration von Unionsbürgern und Ausländern, Zuwanderungsgesetz, ZuwandG*). In August 2023, Germany passed the Act on the Further Development of Skilled Labour Immigration (*Gesetz zur Weiterentwicklung der Fachkräfteeinwanderung*) to implement the EU Blue Card Directive 2021/1883 and improve labour market access for low-skilled workers and asylum seekers. Skilled labour pillar still is the central element of immigration: the report states that whoever is a skilled worker should be able to pursue any qualified occupation in the future. The Federal Employment Agency ensures that foreign workers are not employed under less favourable terms than German nationals in equivalent positions (Sec. 39 (2) No. 1).

Sweden's current legislation includes the Aliens Act (2005:716) and the Aliens Ordinance (2006:97). Major changes are underway to address the misuse of residence permits for studies and to propose legislative changes limiting work during studies. Following reports of extensive abuse of residence permits for studies where students use their residence permits primarily to work, the Migration Agency and the Swedish Association of Higher Education Institutions (SUHF) has been tasked to take action to stop the fraud, and a government inquiry has been set up to propose legislative changes to limit the possibilities to work during studies.<sup>30</sup> In the area of labour immigration, in February 2024, a government inquiry presented a proposal recommending an additional increase of the recently raised wage floor. The proposal is that that the minimum wage level should correspond to the median salary or to around 3400 EUR / month.<sup>31</sup> For occupational groups facing a labour shortage, the proposal suggests that the government could require wages to match the lowest rates specified in collective agreements or established industry practices. This exception is particularly relevant for the care sector, where addressing the labour shortage is a pressing concern. Sweden's municipalities and regions estimate that by 2031, they will need to recruit over 30,000 new nurses, 93,000 assistant nurses, and 20,000 new care assistants due to retirements and an overall increase in demand for staff.<sup>32</sup>

Spain regulates the rights and duties of foreigners through Organic Law 4/2000 on the rights and freedoms of foreigners in Spain and their social integration (LE/2000), and Royal Decree 557/2011 (RLE/2011). This legislation recognises the rights and responsibilities of immigrants based on their legal status in Spain, specifically whether they have been authorised by the State to reside or work there. For foreigners in an irregular situation, meaning those in Spain without a residence permit granted by the Spanish State, it is important to note that they lack the legal right to work and cannot access any type of employment. However, if they are working despite this, Article 36.5 of the LE/2000 states that "the lack of a residence and work permit, without prejudice to the employer's responsibilities to which it gives rise, including those of Social Security, shall not invalidate the employment contract with respect to the rights of the foreign worker, nor shall it be an obstacle to obtaining benefits derived from cases contemplated by the international conventions for the protection of workers or others that may correspond to them, provided that they are compatible with their situation".

### 4.2.3 Presence of migrant populations (both EU and non-EU nationals) in employment and in the care sector

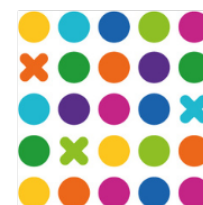
The project reports indicate varying levels of migrant participation across sectors, with a significant presence noted in the care industry. Despite empirical observations suggesting a notable concentration of migrant women in caregiving roles, reports, such as those from Italy, emphasise the lack of scientific data to conclusively verify

<sup>30</sup> Government Promemoria of 8 April 2024 *Improved conditions for foreign doctoral students and researchers to work in Sweden and more accurate decisions on residence permits for studies*, HR2024/00827. The due date for the inquiry report is in late 2024.

<sup>31</sup> Proposed to enter into force in January 2025. Government Inquiry Report SOU 2024:15 *Nya regler för arbetskraftsinvandring*.

<sup>32</sup> Swedish Association of Local Authorities and Regions (2022), *Välfärdens kompetensförsörjning. Personalprognos 2021–2031 och hur välfärden kan möta kompetensutmaningen*, p. 38.





this perception. Existing databases do not provide sufficient evidence to substantiate the prevalent notion of high migrant female representation in this field.

France and Italy report a minimum of 9-10% migrant employment, while Spain follows with 12-13%. Sweden and Germany report higher percentages, approximately 20% and 29%, respectively.<sup>33</sup> In France, the immigrant population constituted 10.3% of the total in 2022, higher than in previous years (5.0% in 1946, 7.4% in 1975, 8.5% in 2010, and 9.3% in 2018). Most immigrant occupations are in services (64%), with significant roles also in construction (19%) and industry (17%). Moreover, security guards and unskilled construction workers have a rate of 28% and 27% of immigrants respectively. Notably, domestic help employs the highest proportion of immigrants, with 39% of positions held by immigrants, significantly more than the overall immigrant employment rate in France. According to a 2019 survey on the care sector, 86% of nurses are women and 2.1% are immigrants; 88% of care assistants are women and 9.6% are immigrants; 94% of home helpers are women and 19% are immigrants. Moreover, according to the *Insee Enquête Emploi* 2019 survey focusing on selected care professions—nurses, care assistants, and home helpers—it reveals the following statistics: among nurses (combining public and private sectors), 86% are women and 2.1% are immigrants; for care assistants, the figures are 88% women and 9.6% immigrants; and among home helpers (*auxiliaires de vie*), 94% are women and 19% are immigrants.<sup>34</sup> This occupation notably shows a significant over-representation of foreign-origin workers, far exceeding the proportion found in other sectors.

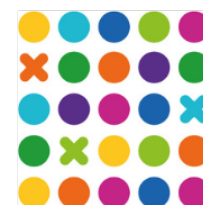
In Italy, third-country nationals accounted for 10.3% of the workforce in 2022, with substantial representation from Albanian, Chinese, and Moroccan communities. The report indicates that in 2022, 31.6% of workers in personal and collective services were foreigners, along with 17.7% in agriculture, 17.3% in catering and tourism, and 15.6% in construction. In sectors with the highest incidences of foreign employment, the majority of foreigners have non-EU citizenship. Non-EU employees account for more than 10% in the tourism and catering sector (13.4%) and agriculture (12.4%), while in collective and personal services the incidence rises to 22.6%.

In Germany, as of 2022, 23.8 million people had a migration background, representing 29.27% of the total population of 81.3 million. The term "migration background" refers to individuals who were either not born with German citizenship or have at least one parent who was not born with German citizenship, a classification used by the Federal Statistical Office since 2005. Among these, 13.4 million people (16.48% of the total population) did not have German nationality, even though they may have been born in Germany to non-German parents under the *jus sanguinis* rule (Sec. 4 StAG, Nationality Act). Most non-German nationals in Germany came from EU countries, with the largest groups being Romanian nationals (883,670), followed by Polish nationals (880,780), Italian nationals (644,970), and Croatian nationals (436,325). However, the largest single group of foreigners in Germany had Turkish nationality (1,487,110), followed by Ukrainians (1,164,200) and Syrians (923,805), the latter two groups primarily due to the ongoing war in Ukraine and the aftermath of the Syrian civil war.<sup>35</sup> In 2022, Germany had 5.6 million foreign employees (4.9 million regularly employed), constituting 14.43% of the total workforce of 38.8 million (34.4 million regularly employed). Of these, 2.7 million were from EU countries, with the majority being Romanian nationals (564,000) and Polish nationals (553,000). Additionally, 2.9 million foreign

<sup>33</sup> Insee, *Chiffres clés*, 10 July 2023.

<sup>34</sup> L. Chassoulier, F.X. Dewetter, S. Lemièrre et al. Dewetter, S. Lemièrre et al. IRES report Investing in the care sector - A gender equality issue, IRES, 2023.

<sup>35</sup> Statistisches Bundesamt, 'Ausländische Bevölkerung nach Altersgruppen und ausgewählten Staatsangehörigkeiten am 31.12.2022' (31 December 2022) <<https://www.destatis.de/DE/Themen/Gesellschaft-Umwelt/Bevoelkerung/Migration-Integration/Tabellen/auslaendische-bevoelkerung-altersgruppen.html>> accessed 25 September 2023



employees were from non-EU countries, with the majority holding Turkish nationality (650,000). German report notes a significant presence of non-German employees in the care sector accounting

In Sweden, the number of foreign-born residents has markedly increased from 1 million in 2000 to nearly 2.2 million by 2023, constituting approximately 20% of the population.<sup>36</sup> A significant majority of these individuals were born outside the EU. Third-country immigrants now represent about 15% of Sweden's total population, positioning the country as the EU's third-largest host of non-European residents, following Luxembourg and Malta.<sup>37</sup> The primary countries of origin for immigrants to Sweden include Syria and Iraq, with notable populations also originating from Iran, Somalia, and Afghanistan. In recent years, Sweden has implemented several legislative and policy changes aimed at reducing immigration and altering its demographic composition. By 2023, the annual influx of immigrants had approached nearly 100,000 individuals. The report highlights that foreign-born individuals represent a larger share of employees in the health and social care sector compared to other sectors, particularly those born outside Europe.<sup>38</sup>

As of 1 January 2023, Spain's population stood at 48,085,361 inhabitants, showing an annual growth of nearly 600,000 people. Of these, 12.7% held foreign nationality, and 17.1% were born outside Spain. The largest demographic increases in 2022 were observed among citizens from Colombia (142,391), Ukraine (83,401), and Venezuela (64,498). As of the same date, the largest groups of foreigners in Spain were Moroccans (893,953), Romanians (629,755), and Colombians (453,911).

Regarding the labour market, Spain reported a total of 2,667,664 affiliates in November, with 867,610 originating from EU countries (462,042 men and 405,568 women) and 1,800,054 from non-EU countries (1,031,842 men and 768,212 women). Women constituted 44.0% of the affiliates, while men comprised 56.0%. By origin, 32.5% were from EU countries, and 67.5% were from other countries.

By autonomous community, Catalonia had the highest number of affiliates with 635,913 (23.84%), followed by Madrid (562,194, 21.07%), Andalusia (317,847, 11.91%), and the Valencian Community (310,268, 11.63%), based on November averages.

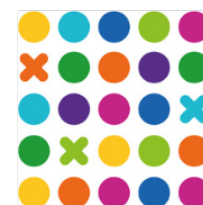
The presence of migrants across various occupations within the care sector remains challenging to precisely quantify based on current reports. However, both Italy and Spain affirm the substantial representation of migrants in roles associated with domestic service and home caregiving. Moreover, Northern European countries exhibit a more pronounced foreign workforce presence in health and social care compared to other sectors.

Spain's report underscores the socioeconomic challenges faced by domestic workers, characterised by undervaluation, inadequate remuneration, and adverse working conditions. These conditions are exacerbated by the significant authority wielded by household employers, resulting in potential arbitrariness. Furthermore, the inherent instability of these roles, often involving simultaneous employment across multiple households, poses risks to the safety and well-being of workers.

<sup>36</sup> Statistics Sweden, Swedish and foreign-born population by region, age and sex 2000 – 2023.

<sup>37</sup> Eurostat, Population on 1 January 2024 by age group, sex and country of birth.

<sup>38</sup> Swedish Occupational Register; The Association of Private Care Providers (2022) *Privat vård fakta 2022. Fakta och statistik om den privat drivna vård- och omsorgsbranschen*, p. 31.



## 4.2.4 Measures to promote migrant's access in the care sector

With the onset of the Covid-19 pandemic in 2019, measures were introduced to facilitate access to specific roles within the care sector for foreign personnel. These included easing entry into employment for health professionals such as foreign nurses and doctors and supporting domestic workers in irregular situations to obtain necessary residence and work permits.

However, current reports consistently highlight persistent staff shortages across the care sector. Notably, Italy has enacted legislative measures to enhance immigrant access to caregiving roles. For instance, Italy introduced a law allowing "professional nurses employed in public and private healthcare facilities" to enter the country outside the annual quotas set by the State, facilitating expedited market entry.

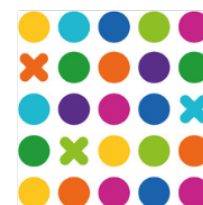
Similarly, Germany's report illustrates provisions for granting temporary residence permits to recognise foreign qualifications, particularly beneficial in the health and care sectors. These permits aim not only to validate professional qualifications against German standards but also to authorise practice in regulated fields such as health, elderly, and childcare. Administered under the "Triple-Win" programme, collaborations between the German Society for International Cooperation (GIZ) and the Central Placement Office (ZAV) of the Federal Employment Agency streamline recruitment of nursing staff from abroad. Employers under this programme are required to provide language training up to CEFR level B2, cover qualification recognition costs, and arrange suitable accommodation, with each nurse placement incurring a gross fee of 7,900 EUR.

In Sweden, the National Board of Health and Welfare annually assesses supply and demand dynamics for licensed healthcare professionals, issuing reports like the National Planning Support. Approximately one-third of Sweden's regions have initiated international recruitment programmes targeting EU/EEA countries and Switzerland, while one-fifth are actively pursuing similar initiatives with non-EU/EEA countries, albeit encountering administrative complexities. Language proficiency remains a critical barrier, prompting investments in language training and support services to facilitate professional licensing and employment, as exemplified by Skåne's establishment of an international office that has successfully facilitated employment for 94% of supported individuals.<sup>39</sup>

In France, exemptions from work permit requirements are granted for occupations facing shortages. These sectors, such as healthcare roles including nurses and care assistants, are identified nationally. According to French law, 'Article L. 414-13 allows residence permits under Articles L. 421-1 and L. 421-3 to be issued without considering employment availability in professions and geographic areas with recruitment difficulties.<sup>40</sup> The list of shortage occupations is specified in the 1 April 2021 Order, exempting work permits for non-EU, non-EEA, and non-Swiss nationals from employment market tests. This regulation ensures that lack of local candidates or prior market search cannot be grounds for denying work permit applications from individuals seeking roles in designated professional families and regions. Recent data shows high demand for care sector occupations like

<sup>39</sup> National Board of Health and Welfare (2023) *Bedömning av tillgång och efterfrågan på legitimerad personal i hälso- och sjukvård samt tandvård. Nationella planeringsstödet 2023.*

<sup>40</sup> Article L. 421-4 of the Ceseda. This provision appears in a sub-section entitled "Common provisions" applicable to TDS for professional reasons. Similarly, students at the end of their studies who wish to work in France are, under certain conditions, issued with a temporary residence permit for a period of six months, renewable once, at the end of which they may obtain a residence permit as an employee without having to prove that they are in employment. Foreign students must have obtained a diploma at least equivalent to a Master's degree, or one that appears on a list established by decree, from a nationally accredited higher education establishment. They must also have an employment contract, either open-ended or fixed-term, in line with their training and with pay above a threshold determined by decree and adjusted, where appropriate, according to the level of the diploma concerned.



care assistants, nurses, home health aides, and household assistants in certain French regions.<sup>41</sup> Additionally, France has bilateral agreements with several countries to manage migration, allowing workers from partner countries to enter, reside, and work without employment restrictions in sectors aligned with shortage occupations identified in the 1 April 2021 Order.<sup>42</sup> These agreements, including those with non-EU nations in Africa, specify shortage occupations distinct from those covered by standard legislation (as per the annex to the April 1, 2021 Order, formerly governed by the January 18, 2008 Order).

Overall, these initiatives underscore ongoing efforts across Europe to address staffing shortages in the care sector, using targeted policies and bilateral agreements to facilitate immigrant employment and mitigate workforce deficiencies.

## 4.2.5 Activities of Equality bodies or organisations regarding racial, ethnic or religious discrimination or the rights of migrant workers in the care sector

Equality bodies exist in all countries, although with different competencies.

The actions and reports by equality bodies on the rights of migrant workers in the care sector vary significantly across France, Germany, Poland, Sweden, Spain, and Italy. In conclusion

There are notable disparities in the actions and reports of equality bodies regarding the rights of workers in the care sector across the six countries.

In France, the Ombudsman's survey emphasises systemic discrimination and the intersection of inequalities in the personal services sector, with an important focus on the challenges faced by women and immigrant workers.

In Germany several organisations, including the EU Office for Equal Treatment of Workers, Minors and German Institute for Human Rights (*Deutsches Institut für Menschenrechte* or DIMR), are actively documenting and addressing the challenges faced by home care workers, particularly in Europe This, highlighting the legal problems and respect for working conditions.

In Poland despite the existence of key equality bodies, the rights of workers in the care sector have not been specifically addressed.

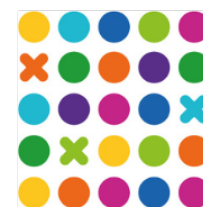
In Sweden, the Equality Ombudsman has carried out some follow-up activities, but has no specific reports on workers in the care sector.

No specific reports have been found in Spain, although general knowledge suggests that there is a perception of discrimination in the care sector.

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<sup>41</sup> V0Z60: Corsica; Grand Est; Hauts-de-France; Occitanie; Pays de la Loire ; V1Z80: Bourgogne-Franche-Comté; Grand Est; Hauts-de-France; Ile de France; Normandie; Occitanie ; T2A60: Centre-Val de Loire; Occitanie; Pays de la Loire.

<sup>42</sup> Source: official website of the Ministry of the Interior: Bilateral agreements relating to professional mobility / Bilateral agreements / Europe and International - General Directorate for Foreigners in France - Ministry of the Interior ([interieur.gouv.fr](http://interieur.gouv.fr)) and Légifrance [Accessed on 5 December 2023].



In Italy, the National Office for Racial Discrimination (*Ufficio nazionale antidiscriminazioni razziali* or UNAR) has not focused on care workers, but the Association for Legal Studies on Immigration (*Associazione per gli Studi Giuridici sull'Immigrazione* or ASGI) reports highlight wider issues of institutional discrimination affecting access to welfare.

Overall, while some countries have proactive equality bodies that address the rights of workers in the care sector, others do not have specific actions and reports.

## 4.2.6 Legislation on harassment of migrant women workers in the domestic sector or exploitation in the workplace with respect to undocumented or irregular migrant workers

In general, the countries examined have aligned their legislation with Directives 2000/43/EC, 2000/78/EC, and 2006/54/EC, focusing on employment regulations. However, it is notable that several countries lack specific regulations addressing domestic work. For instance, Poland's legal framework does not directly address domestic workers, leaving them in precarious employment situations often categorized under civil law contracts or self-employment, which do not ensure adequate protection.

Similarly, while some countries have legislation governing domestic work, there is often a lack of specific laws addressing harassment in this sector. Domestic workers are particularly vulnerable to harassment due to the isolated nature of their work, yet they face challenges in substantiating such cases.

Regarding the exploitation of irregular migrants, the countries studied comply with Directive 2009/52/EC, which establishes minimum standards for sanctions against employers of illegally staying third-country nationals. France and Poland outline their legislative measures against workplace exploitation, although practical enforcement remains challenging, particularly for undocumented migrant workers who fear reprisals due to their immigration status.

Sweden has introduced a national strategy to combat labour-related crime, supported by active engagement from social partners and legislative reforms.<sup>43</sup> The report states that there has been important engagement from the side of the social partners in some of the affected industries, and also from other actors.<sup>44</sup> Recent legislative changes have been adopted, with further reforms currently underway in response to both completed and ongoing governmental inquiries.<sup>45</sup>

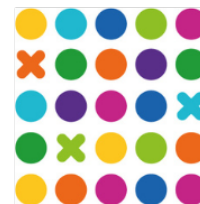
In Italy, there is concern over illegal labour recruitment exploiting vulnerable workers, notably in the agricultural and agri-food sectors known as 'caporalato'. Law No. 199/2016 introduced provisions to combat this, amending

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<sup>43</sup> Government Inquiry Report SOU 2024:14 *Arbetslivskriminalitet: Myndighetssamverkan. En gemensam tipsfunktion. Lärdomar från Belgien och gränsöverskridande arbete*; Government Inquiry Report SOU 2024:15 *Nya regler för arbetskraftsinvandring*; Government Inquiry Report SOU 2023:8 *Arbetslivskriminalitet: arbetet i Sverige, en bedömning av omfattningen, lärdomar från Danmark och Finland*; Government Inquiry Report SOU 2022:36 *Arbetslivskriminalitet, en definition. En inledande bedömning av omfattningen. Lärdomar från Norge*; Government Inquiry Report SOU 2021:88 *Ett förbättrat system mot arbetskraftsexploatering m.m. Slutbetänkande av Utredningen om arbetskraftsinvandring*; Government Inquiry Report Ds 2021:1 *Myndigheter i samverkan mot arbetslivskriminalitet*.

<sup>44</sup> Government Inquiry Report SOU 2023:8 *Arbetslivskriminalitet: arbetet i Sverige, en bedömning av omfattningen, lärdomar från Danmark och Finland*, particularly Chapter 2.

<sup>45</sup> Government Inquiry Remit Dir. 2023:68 Tilläggsdirektiv till Delegationen mot arbetslivskriminalitet (A 2021:04).



Article 603 bis of the Penal Code.<sup>46</sup> The practice retains foreign labour in Italy and attracts new migrants, often undocumented and vulnerable. Fear of deportation prevents these workers from reporting exploitation, highlighting the difficulty undocumented foreigners face in accessing justice. This results in underreported cases of severe labour exploitation and enduring poor living conditions, including precarious health, limited access to water, basic medical care, and adequate housing.

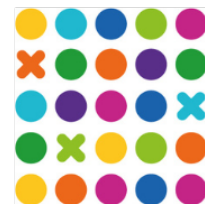
Directive (EU) 2024/1233, adopted on 24 April 2024, introduces a unified procedure for a single permit allowing third-country nationals to reside and work in EU Member States, alongside common rights for legally residing third-country workers (recast). It includes sanctions for employers who exploit the working conditions of regular foreign workers. Under Article 13, Member States must establish measures to prevent abuses and enforce penalties for breaches of national equal treatment provisions. These measures involve monitoring, assessments, and inspections, especially in high-risk sectors. The directive mandates effective, proportionate, and dissuasive penalties for non-compliant employers. Member States must ensure labour inspectorates or competent authorities have access to workplaces, including employer-provided accommodation with the worker's consent. Article 14 facilitates complaints and legal redress for third-country workers, requiring Member States to establish accessible mechanisms for lodging complaints directly or through legitimate third parties and competent national authorities where provided by law.<sup>47</sup>

These legislative and policy measures underscore ongoing efforts across Europe to protect the rights of migrant workers, albeit with varying degrees of implementation and effectiveness.

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<sup>46</sup> See, among others, the contributions published in 'Riflessioni Giuslavoristiche Sullo Sfruttamento Del Lavoro' [2021] *Lavoro e Diritto*; Marco Omizzolo, *Sotto Padrone. Uomini, Migranti e Caporali Nell'agromafia Italiana* (Feltrinelli 2019); Marco Omizzolo (ed), *Articolo 1. L'Italia è Una Repubblica Fondata Sul Lavoro Sfruttato* (Infinito Edizioni 2022).

<sup>47</sup> For more comments, see Ferran Camas Roda's blog: *Nueva Directiva europea sobre permiso único y régimen común de derechos para trabajadores extranjeros*. <https://www.ferrancam.com/blog-derecho-laboral-inmigracion/nueva-directiva-europea-sobre-permiso-unico-y/ia624>



## 5. Conclusions

This comparative report has provided a structured overview of key issues identified in each national report within WP3 of the project. While the summary herein offers a condensed perspective, it is essential to delve into the detailed national reports for a comprehensive understanding of discrimination dynamics across different countries.

Within the contexts of gender discrimination and discrimination based on migrant status in the care sector, common themes have been explored, including the alignment of legislation with anti-discrimination principles, the significant representation of women and migrants in care roles, and the identification of discriminatory practices within legal frameworks and collective bargaining agreements.

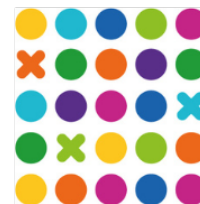
In terms of gender discrimination within the care sector, it is noteworthy that all countries in the project consortium have established anti-discrimination and anti-harassment legislation. Women are prominently represented in care professions across these nations. Instances of direct or indirect discrimination in legislation or collective bargaining are generally absent, with a notable exception in Italy concerning regulations on domestic service and unemployment benefits, which may contravene European directives against indirect discrimination based on sex.

Conversely, regarding discrimination based on migrant status in the care sector, the legislation of participating countries, as well as European legislation, does not explicitly recognize immigrant status as a ground for discrimination. However, vulnerabilities associated with immigrant status affecting labor market access and job security are acknowledged. Discriminatory situations linked to migrant status often intersect with factors such as race, ethnicity, religion, or nationality, particularly visible within domestic work.

Victims of discrimination in the care sector frequently refrain from reporting incidents, resulting in limited legal precedents. This underreporting extends to issues concerning undocumented migrants, where data availability remains sparse across most countries, despite estimations indicating a significant presence of irregular workers, notably in Germany.

Key considerations for future action include the importance of adopting an intersectional approach to address gender-related challenges within the care sector and closely monitoring initiatives aimed at enhancing migrant access to these professions, particularly in light of Europe's aging population. Recent Directives adopted at the conclusion of WP3, such as those pertaining to equality bodies and single leave regulations (Directive 2024/1233), are poised to play pivotal roles in reinforcing equality standards and combating employer abuses against migrant workers.

In conclusion, this comparative report underscores the complexities and ongoing efforts across Europe to address discrimination in the care sector comprehensively. It emphasizes the necessity for continued legislative scrutiny, proactive measures, and robust data collection to uphold equality principles and safeguard the rights of all workers, particularly those in vulnerable positions due to gender and migrant status.



## 6. List of references

### 6.1. National CARE4CARE WP2 reports

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Italian National Report on 'Discrimiantion Map', WP3 (partner: University of Florence, authors: Vallauri M.L., Chiaromonte W., Frosecchi G., Renzi S., Mazzetti M.).

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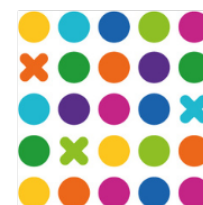
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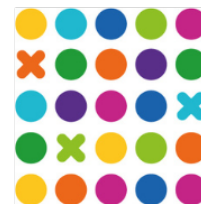
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