

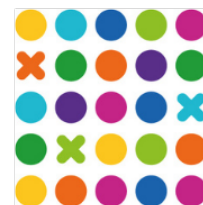


Deliverable No. D 3.3: National and Comparative
Discrimination Map Reports

Swedish Care Workers' Discrimination Map Report

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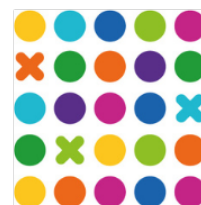


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GENDER

1. Provide a brief overview of your national legislation on gender discrimination in employment.

The Instrument of Government (1974:152) imposes a constitutional obligation for public entities to counteract all discrimination on the ground of sex/gender, and prohibits negative differential treatment on the grounds of gender in laws or other regulations with an exception for positive action.¹² These provisions do not give individual rights and cannot be a ground for individual complaints or claims for damages.

In working life, a statutory ban on sex discrimination has been in place since 1979 with the Act (1979:1118) on Equal Treatment Between Men and Women in Working Life.³ The current Discrimination Act (2008:567) came into force in 2009 and bans discrimination on the grounds of sex, transgender identity or expression, ethnicity, religion or other belief, disability, sexual orientation, and age.⁴ 'Sex' is defined as 'that someone is a woman or a man'.⁵ In addition, 'a person who intends to change or has changed the sex they belong to is also covered by sex as a ground of discrimination'.⁶ Pregnancy and maternity discrimination is not specifically addressed in the law, but is covered by the ban on direct sex discrimination in line with the CJEU case law.

The Discrimination Act (2008:567) applies in a wide range of sectors in society. In working life, the prohibition to discriminate applies to employers in relation to employees, jobseekers, persons who are enquiring about work, or applying for or carrying out a traineeship, and temporary agency workers. Persons authorized to decide in place of the employer, as well as persons in managerial positions, are equated with the employer, and the employer is responsible if the discriminatory act is carried out by a recruitment company. A contract has no legal effect to the extent that it restricts a person's rights or obligations under the Act; the prohibition against discrimination applies even if the parties have agreed otherwise. The prohibition covers direct discrimination, indirect discrimination, harassment, sexual harassment, and instructions to discriminate. The prohibition, which gives rise to claimable rights, applies only in cases concerning individual persons; there is no prohibition against general discrimination.⁷ Under the act, the employer is also required to actively promote gender equality, to facilitate the combination of working life and family life, and to conduct pay surveys. The provisions on these active measures do not give rise to claimable rights for individuals. Instead, failure to comply may in the end lead to a sanction charge. The compliance with the law is monitored by the national equality body, the Equality Ombudsman.

2. Make a brief social commentary on the presence of women workers in the care sector.

From the 1970s, the female participation in employment has increased significantly from an already high level, and since the mid-1980s the difference in employment rates between men and women has been very small,

¹ The section on gender in this report partly builds on Jenny Julen Votinius, *Gender equality. How are EU rules transposed into national law? Country report Sweden*, Publications Office of the European Union, 2024.

² Chapter 1 Section 2(5) and Chapter 2 Section 13 of the Instrument of Government (1974:152).

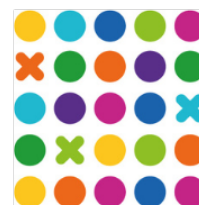
³ The Act on Equality between Women and Men in Working Life (1979:1118), replaced by the Equal Opportunities Act (1991:433). The Ethnic Discrimination Act (1994:134).

⁴ Chapter 1 Section 1 of the Discrimination Act (2008:567); Government Inquiry Report SOU 2006:22 *En sammanhållen diskrimineringslagstiftning*; Government Inquiry Report SOU 2002:43 *Ett utvidgat skydd mot diskriminering*.

⁵ Chapter 1 Section 5(1)(1) of the Discrimination Act (2008:567).

⁶ Chapter 1 Section 5(2) of the Discrimination Act (2008:567).

⁷ Government Inquiry Report SOU 2021:94 *Ett utökad skydd mot diskriminering*, concluded that EU law does not require national law to cover these cases.



with a 77 % for women and 80.5 % for men in 2023.⁸ This development corresponded to the gradual introduction of reforms to increase women's participation in the labour market, including gender neutral parental leave and comprehensive public child care.⁹ The welfare state is oriented towards the individual: every adult person should be able to support themselves and live independently according to their own choices taking into account the services, benefits and, if needed, additional support provided by the public system.¹⁰

A large part of the public care and health care sector (where the provider can be regions, municipalities, or private companies) is carried out in the form of domestic care work. Swedish elder care policy is based on the principle of ageing in place, encouraging elderly to remain in their homes for as long as possible with various forms of support.¹¹ The great majority of elderly persons live in their homes with or without care services. In 2020, only 4 % of the age group 65-79 and 11 % of persons above 80 lived in residence homes for elderly.¹² Likewise, in disability policy, the promotion of individual support and solutions for individual independence is a cornerstone in all parts of life including housing.¹³ Around 14 000 persons with a disability are entitled to personal assistance.¹⁴ There are around 100 000 personal assistants, 22 % of whom are a relative to the assistance user: in the majority of cases these relatives are parents caring for a child with a disability.¹⁵ Many personal assistants work by the hour and part-time, with one in five working less than four hours a week. Personal assistants normally work in the home of the care-taker. In health care, Sweden is the country in the EU which, together with the Netherlands, has the highest proportion of home care beds (and the lowest number of hospital beds). In addition, patients can receive highly specialized medical healthcare at home.¹⁶

While Sweden is often referred to as a model for gender equality, the labour market is one of the most gender segregated across Europe, although slowly becoming less so.¹⁷ The pronounced gender segregation 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.¹⁸ Today, the most common occupation in Sweden is 'assistant nurse in

⁸ Statistic Sweden, Labour Force Surveys, September 2023, population aged 16–64 years. Anxo, D., Towards an Active and Integrated Life Course Policy: the Swedish Experience, In: Anxo, D, G. Bosch and J. Rubery (eds.) *The welfare state and life transitions: a European perspective*, Cheltenham 2010, 113.

⁹ Bergqvist, Christina (2016) 'The Welfare State and Gender Equality', In: Pierre, Jon (ed.) *The Oxford Handbook of Swedish Politics*, Oxford University Press; Hinnfors, Jonas (1999) 'Swedish Parties and Family Policies 1960–1980: Stability Through Change'. In: Torstendahl, Rolf (ed.) *State Policy and Gender System in the Two German States and Sweden 1945–1989*, Historiska institutionen Uppsala universitet.

¹⁰ Esping-Andersen, G. (1990) *The three worlds of welfare capitalism*. Cambridge: Polity Press; Berggren H. and Trägårdh L. (2022) *The Swedish Theory of Love – Individualism and Social Trust in Modern Sweden*, University of Washington Press.

¹¹ Government Inquiry Report SOU 2017:21 *En nationell kvalitetsplan för vård och omsorg om äldre personer*, p. 83.

¹² Swedish National Board of Health and Welfare, (2021), *Behov av och tillgång till särskilda boendeformer för äldre*. Swedish National Board of Health and Welfare (April 2023) *Statistik om socialtjänstinsatser till äldre*.

¹³ Government Bill Prop. 2016/17:188 *Nationellt mål och inriktning för funktionshinderspolitiken*.

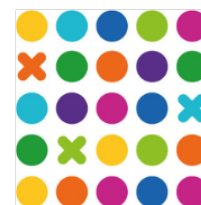
¹⁴ Swedish Social Insurance Agency, *Användning av assistansersättningen. Hur assistansanvändarna förlägger sin assistansersättning. Socialförsäkringsrapport 2022:3*, p. 5.

¹⁵ Swedish Social Insurance Agency (2018) *Assistansersättning*, Korta analyser 2018:2; Swedish Social Insurance Agency (2018) *Anhöriga till personer med statlig assistansersättning En beskrivning av anhöriga som personliga assistenter, mottagare av personlig assistans och assistansersättningen*, Socialförsäkringsrapport 2018:5.

¹⁶ The Swedish Association of Local Authorities and Regions (2022) *Fakta om vårdplatser*, p. 8, 10 and 23.

¹⁷ 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.

¹⁸ Melkas H., Anker R. (1997). 'Occupational segregation by sex in nordic countries: an empirical investigation', *Int. Labor Rev.* 136 341–364.



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.¹⁹

3. Have statistics or databases been published in your country on the care sector or on each of the occupations that are part of this sector, differentiating by gender?

- In the case of databases, do these present aggregated data, micro-data, or both (aggregated data: data at national or regional level; micro-data: individual data, collected but not published, only available to researchers)?

- Are these databases public and freely accessible to everyone, or only to researchers?

- If databases exist, please provide links and/or how to request them.

All public statistics on the individual level must be broken down by gender unless there are specific reasons against.²⁰ Statistics on care sector occupations are published regularly. For over a hundred years, occupational data on individuals have been collected in Sweden. Since 2001, the Swedish Occupational Register provides information on the distribution of the working population in different occupational groups and has highlighted the development of occupations in various industries and sectors of the labour market.²¹

The Swedish Occupational Register is an individual register covering all persons over the age of 16 registered in Sweden, and it is updated every two years. It contains gender-disaggregated information on the occupation, place of work, income, and education of the working population. Approximately 20 different administrative sources contribute occupational data to the register.

The register is organized according to the Standard Swedish Occupational Classification 2012 (SSYK2012), based on the International Standard Classification of Occupation 2008 (ISCO-08). Occupational data is classified at four-digit level, corresponding to 429 classes, made up of individual data. The publicly available data at the web page of Sweden Statistics is presented at a macro level by occupation, sector, region, sex, and place of birth based on geographical regions. Micro data is available upon request and at a charge to authorised clients: Swedish universities and other entities for the purpose of a specific research project, as well as authorities and public organisations for the purpose of limited statistical analysis. Micro data is pseudonymised; identities of individuals are replaced by a serial number.

The statistics can be accessed at: <https://www.scb.se/en/finding-statistics/statistics-by-subject-area/labour-market/employment-and-working-hours/the-swedish-occupational-register-with-statistics/>

In addition, for occupations in the care sector that requires a license (for this study: nurse and assistant nurse) statistics is available free of charge at the web site of the National Board of Health and Welfare.

The statistics can be accessed at: <https://www.socialstyrelsen.se/statistik-och-data/statistik/alla-statistikamnen/halso-och-sjukvardspersonal/>

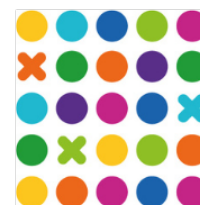
4. Describe or comment on what the statistics or databases you have found show in relation to the participation of male and female workers in the care sector workforce, either taking this sector as a whole, or in relation to each of the occupations that make up this sector.

The largest occupational group in the care sector and, also, the most common occupation in Sweden is 'assistant nurse in home care, home health care and residence homes for the elderly' (*undersköterskor inom hemtjänst, hemsjukvård och äldreboende*). This group is made up of 89 % women and 11 % men, similar to what applies for

¹⁹ Swedish Occupational Register 2021.

²⁰ Section 14 of the Ordinance (2001:100) on official statistics.

²¹ Statistics Sweden (2011) *Yrkesregistret med yrkesstatistik En beskrivning av innehåll och kvalitet* 2011:15.



the largest group of licensed health care professionals, nurses (*sjusköterskor*), where women accounted for 88 %, as well as for assistant nurses generally (*undersköterska*), and home care assistants for elderly (*hemtjänstpersonal, vårdbiträde*). Women also account for around 70 % of care assistants (*vårdbiträde*) and personal assistants (*personlig assistent*) for persons with a disability. This is in contrast to the entire workforce, where the shares of men and women are virtually equal with women making up over 48 %.²²

In Sweden, most employees have a permanent and full-time employment.²³ Here, the health care and care sectors deviate; the share of both fixed term and part time employments are above average. This applies particularly to the occupational groups in this study, all of whom are clearly female dominated.²⁴

Fixed term contracts are more common in elder care and personal assistants for persons with a disability than in other parts of the care sector. In elder care, most notably, 60 % of the care assistants has a fixed-term contract, while the corresponding figure for assistant nurses is 16 %.²⁵ Fixed term contracts are even more common for personal assistants for persons with a disability, here eight out of ten personal are employed for a fixed term.²⁶ Hourly employments are common for care assistants and assistant nurses particularly in elder care. In 2021, more than half of all hourly paid employees in municipalities worked in elder care and the care of persons with a disability, with care assistants accounting for around one quarter (around 27 000 employees). In total, 42 % of the care assistants employed in municipalities were paid by the hour. In the regions, assistant nurses account for almost 40 % of the hourly paid employees. In total, 18 % of the assistant nurses, and 9 % of the nurses in regions were paid by the hour.²⁷

While the prevalence of fixed-term employment varies considerably across occupational groups and areas of care, part-time work is common across the entire sector. More than half of care workers work part-time, making them one of the groups in the labour market with the highest proportion of part-time workers.²⁸ In health care, part-time employments accounts for just over 30 % in municipalities and regions and just under 40 % in the private sector. For assistant nurses and care assistants in elderly care, and personal assistants for persons with a disability, the share of part-time employment is higher, around 50 % in private companies and slightly lower in municipalities and regions.²⁹ There are significant differences in terms of working hours among part-time workers. Among nurses, it is unusual to work less than 70 %, and a large proportion of part-time nurses work more than 81 % of a full-time job.³⁰ Quite differently, among personal assistants for persons with a disability, 20 % work less than four hours a week and many combine work with studies or other work.³¹ In the female dominated care sector there are long standing debates and current debates on involuntary part-time, health and safety and shortages of staff, as well as on the low level of wages. In 2024, these debates amounted to a long and comprehensive industrial conflict where the nurse's trade union took collective action, including strike.

²² Swedish Occupational Register 2021.

²³ In 2002, appr. 14 % of all employments were fixed term and appr. 20 % part time, Statistics Sweden, Labour Force Surveys.

²⁴ Swedish National Board of Health and Welfare from the Municipality and County database Kolada, <https://www.kolada.se/>

²⁵ Swedish National Board of Health and Welfare, *Vård och omsorg för de äldre. Lägesrapport 2023*, p.55. In elder care, 85 % of the employees work for region or municipality.

²⁶ Government Inquiry Report SOU 2020:1 *Översyn av yrket personlig assistent. Ett viktigt yrke som förtjänar bra villkor*.

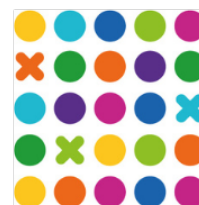
²⁷ Swedish Association of Local Authorities and Regions (2022) *Personalen i välfärden Personalstatistik för kommuner och regioner 2022*.

²⁸ Swedish Association of Local Authorities and Regions (2022) *Personalen i välfärden Personalstatistik för kommuner och regioner 2022*, p. 24.

²⁹ Swedish National Board of Health and Welfare, *Vård och omsorg för de äldre. Lägesrapport 2023*, p. 55. See also Swedish Gender Equality Agency (2023) *Analys av den könssegregerade arbetsmarknaden. Förutsättningar för en bredare rekryteringsbas till välfärden. Underlagsrapport 2023:8*, p. 27.

³⁰ Swedish Association of Health Professionals (2023) *"Jag orkar inte jobba mer än deltid". Så kan hållbara heltider ge fler kollegor i vården. Deltidsrapport 2023*.

³¹ Government Inquiry Report SOU 2020:1 *Översyn av yrket personlig assistent. Ett viktigt yrke som förtjänar bra villkor*.



The conflict revolved not primarily around the yearly wage increase but about health and safety, stress, and workload, and included demands from the trade union on substantial reductions of working hours. At the drafting of this report, the industrial conflict is still ongoing.

In 2022, the average retirement age for the entire Swedish labour market was 64.8 years (64.8 for women and 64.9 for men). The care and health care sector shows a very similar picture, with an average retirement age of 65 for nurses (*sjuksköterskor*), 64.4 years for assistant nurses (*undersköterskor*), 64.2 years for care assistants (*vårdbiträden*), 64.5 years for home carers (*annan hemtjänstpersonal*), and 64.7 years for personal assistants for persons with a disability (*personliga assistenter*).³²

5. If legislation exists on the care sector in general, or on the occupations that make up the care sector, please describe whether it is gender-neutral in terms of the workers, or whether it makes any reference to the presence of women in this sector or these occupations (e.g. acknowledging the majority presence of women in the sector, or granting them any special attention in terms of rights, etc.). If special reference is made to women, please specify.

Swedish law is gender neutral with very few exceptions, mainly regarding pregnancy. The Work Environment Authority issues binding occupational health and safety provisions, some of which on pregnant and breastfeeding workers. In line with the uniform character of Swedish labour law, these provisions apply in the entire labour market, although some are particularly relevant for the care sector, see Section 15.

6. Does the legislation or, if applicable, collective agreements provide for occupational classification system in care sector? If so, do you consider any gender bias in this occupational classification (if so, please explain).

Public statistics on employment applies Swedish Standard Classification of Occupations (SSYK 2012), based on the international classification (ISCO-08), covering 429 occupational codes. It has been noted that this system means a less nuanced breakdown in relation to many female-dominated occupations, than what applies in relation to male-dominated occupations.³³

In the joint wage statistics of the social partners, each employers' organisation applies their own classification system.³⁴ Municipalities and regions use the Labour Identification System (*Arbetsidentifikation*, AID) with about 225 occupational codes for different areas of work. Companies in the private sector use various systems, most frequently the Business Sector Occupational Classification (*Näringslivets yrkesklassifikation*, NYK14), with around 1,000 occupational codes. It is based on Statistics Sweden's SSYK codes, with some additions determined by the Confederation of Swedish Enterprise together with the employers' organisations.³⁵ Other private employers use for instance IPE (Internal Position Evaluation) and BAS (Befattnings- och arbetsvärderingssystem / Position and work evaluation system). There are also many other systems in place, which have been developed by the social parties together or by one of them, or by external consultants.³⁶ In the state sector, which is not particularly relevant for care workers, the social partners have jointly developed a job classification system

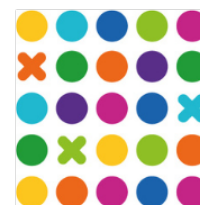
³² Swedish Pension Authority (2023) *Pensionsåldrar och arbetslivets längd. Svar på regleringsbrevsuppdrag 2023*.

³³ Government Inquiry Report SOU 2022:4, *Minska gapet. Åtgärder för jämställda livsinkomster*, p. 250.

³⁴ Government Inquiry Report SOU 2022:4, *Minska gapet. Åtgärder för jämställda livsinkomster*, p. 241.

³⁵ Confederation of Swedish Enterprise (2021) *Näringslivets Yrkesklassifikation 2021 - NYK. Beskrivning av klassifikationen - Systematisk beskrivning*.

³⁶ Kumlin, Johanna, *Sakligt motiverad eller koppling till kön? En analys av arbetsgivares arbete med att motverka osakliga löneskillnader mellan kvinnor och män. Rapport 2016:1*, Equality Ombudsman, Stockholm 2016, p. 52.



called BESTA, as a tool in the wage formation process on sectoral and local level, and the foundation for the jointly collected wage statistics.³⁷

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. The license requirement for assistant nurses entered into force 1 July 2023, and anyone who had a permanent position as an assistant nurse when the requirement entered into force may continue to use the title until 30 June 2033 without a license. Care assistants and personal assistants for persons with a disability are not covered by a license requirement.

7. Have there been any legal disputes or conflicts publicised by the media in your country over “job classification” in the care sector and gender discrimination? If so, please summarise or comment on the case(s).

No such conflicts have been detected.

8. Does legislation or, where applicable, collective agreements provide for specific provisions on employment contracts in the care sector, which are different from employment contracts in other productive sectors? If so, do you consider that there is any gender bias in relation to employment contracts? (If so, please explain)

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.

9. Have there been any legal disputes or conflicts publicised by the media in your country over “employment contracts” in the care sector and gender discrimination? If so, please summarise or comment on the case(s).

No such conflicts have been detected.

10. Do the legislation or, if applicable, collective bargaining agreements make any provision for wages in each of the care sector occupations, differentiating them in terms of their structure or amount from workers in the general or other production sectors?

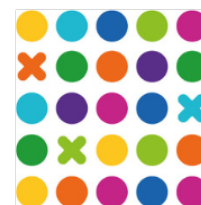
There is no statutory regulation of wages and no statutory minimum wage. Wages are set within the framework of sectoral collective bargaining with extensive elements of local wage agreements and individual wage setting. Wages may not be determined on the basis of gender, and collective agreements must be in accordance with the requirements in the Discrimination Act (2008:567).

To safeguard the principle of equal pay for women and men, the employer must carry out yearly pay audits in collaboration with trade union representatives, under the provisions in the Discrimination Act (2008:567).³⁸ Pay audits were first introduced in 1994 and were last revised in 2017.³⁹ The pay audit includes a survey and an analysis of wages and wage differences, referring in particular to the comparison between women and men performing work that is to be regarded as equal; groups of employees performing work considered to be dominated by women and groups not dominated by women performing work of equal value; and employees performing work considered to be dominated by women and a group of employees performing work not

³⁷ BESTA is available (in Swedish only) at <https://bestawebben.arbetsgivarverket.se/?acceptCookies=true>

³⁸ Chapter 3 Sections 8 and 11 of the of the Discrimination Act (2008:567).

³⁹ Government Bill Prop. 1993/94:147 *Jämställdhetspolitiken: Delad makt, delat ansvar*; Government Bill Prop. 2015/16:135 *Ett övergripande ramverk för aktiva åtgärder i syfte att främja lika rättigheter och möjligheter*.



considered to be female-dominated but better paid despite the work requirements being deemed to be lower.⁴⁰ Employers with 10 or more employees must document the work undertaken in relation to pay audits. Upon request, this information must be sent to the Equality Ombudsman.⁴¹ The Discrimination Act do not refer to a particular classification system for the comparison of wages. Instead, it provides a general guidance: the comparison should be based on the *requirements* of the work – including knowledge and skills, responsibility, and effort – and on the *nature* of the work – particularly in terms of working conditions.⁴²

Although there is no statutory requirement for the employer to apply a systematic or factor-based job evaluation system when deciding which work that is to be regarded as of equal value to other work, such systems are frequently applied. Wage setting in accordance with professional skills as well as responsibility is ensured by each employers' organisation applying its own classification system within the framework of the social partners' joint wage statistics.⁴³ In municipalities and regions, the Labour Identification System (*Arbetsidentifikation, AID*) is used, which contains about 225 occupational codes for different areas of work. In the private sector, the largest share of employees is covered by the Business Sector Occupational Classification (*Näringslivets yrkesklassifikation, NYK14*). The NYK is based on Statistics Sweden's SSYK codes, with some additions determined by the Confederation of Swedish Enterprise together with the employers' organisations and contains around 1,000 occupational codes.⁴⁴

As a result of the different conditions for wage formation in different parts of the labour market, wage levels differ between the private and public sectors, and also between different occupational groups. In the public sector, and in care work, both which are female dominated, the pay levels are typically lower than in the private sector and in occupations where most employees are men.⁴⁵ In addition, normally, female-dominated occupations display a narrow wage range, thus limiting the possibility of wage progression for those who stay in the profession for many years.⁴⁶ The table below shows the average full time monthly pay for the care sector occupations in 2022. In all these occupations, the average wages are lower than in occupations of equal value which are not female dominated.⁴⁷

Table 1. Average monthly wage, by gender and occupation 2022

	Men:	Women:	Total:
Nurse (SSYK 2221)	3 773 EUR / 42 200 SEK	3 656 EUR / 40 900 SEK	3 674 EUR / 41 100 SEK
Assistant nurse; home care, home health care and residence homes for the elderly (SSYK 5321)	2 682 EUR / 30 000 SEK	2 753 EUR / 30 800 SEK	2 745 EUR / 30 700 SEK

⁴⁰ Chapter 3 Section 9 of the of the Discrimination Act (2008:567).

⁴¹ Chapter 4 Section 3 of the Discrimination Act (2008:567).

⁴² Chapter 3 Section 10 of the Discrimination Act (2008:567). Until 2015, the Equality Ombudsman provided tools for evaluation schemes and pay systems. These were later transferred to non-profit organizations, which provide the tools to employers free of cost, cf. Government Inquiry Report SOU 2022:4, *Minska gapet. Åtgärder för jämställda livsinkomster*, p. 228.

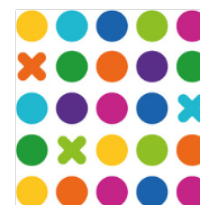
⁴³ Government Inquiry Report SOU 2022:4, *Minska gapet. Åtgärder för jämställda livsinkomster*, p. 241.

⁴⁴ Confederation of Swedish Enterprise (2021) *Näringslivets Yrkesklassifikation 2021 – NYK. Beskrivning av klassifikationen – Systematisk beskrivning*.

⁴⁵ National Mediation Office (2023) *Löneskillnaden mellan kvinnor och män 2022 Vad säger den officiella lönestatistiken?* Government Inquiry Report SOU 2015:86, *Mål och myndighet. En effektiv styrning av jämställdhetspolitiken*; Government Inquiry Report SOU 2020:46, *En gemensam angelägenhet*.

⁴⁶ Government Inquiry Report SOU 2015:86, *Mål och myndighet. En effektiv styrning av jämställdhetspolitiken*.

⁴⁷ Swedish Gender Equality Agency (2018) *Analys av den könssegregerade arbetsmarknaden. Förutsättningar för en bredare rekryteringsbas till välfärden. Underlagsrapport 2023:8*, p. 24.



Assistant nurses; medical and specialised ward (SSYK 5323)	2 759 EUR / 30 900 SEK	2 804 EUR / 31 400 SEK	2 795 EUR / 31 300 SEK
Care assistants (SSYK 5330)	2 384 EUR / 26 700 SEK	2 384 EUR / 26 700 SEK	2 384 EUR / 26 700 SEK
Personal assistant for persons with a disability (SSYK 5343)	2 598 EUR / 29 100 SEK	2 589 EUR / 29 000 SEK	2 598 EUR / 29 100 SEK

Statistics Sweden, Average salary and salary dispersion by sector, occupation (SSYK 2012) and sex 2022

11. Have there been any legal disputes or conflicts publicised by the media in your country over “wages” in the care sector and gender discrimination?

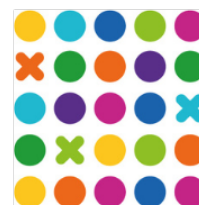
There are three cornerstone cases as regards the comparison of work claimed to be of equal value, the so-called midwife cases, brought by the Sex Equality Ombudsman 1996 and 2001.⁴⁸ These cases were transferred from the midwives’ trade union to be used as pilot cases, contesting collectively bargained pay differences between the female dominated category of mid-wives and various male-dominated categories of workers. The issue at stake in the first case was whether the wage of a midwife was discriminatory as compared to that of a hospital technician. The Labour Court did not exclude the possibility that the work of a midwife and a hospital technician could be compared, but in the case at stake it did not find the method used by the Sex Equality Ombudsman (JämO) (the predecessor of the Equality Ombudsman) to be sufficient to prove that the two works were of equal value. The second case, too, concerned the alleged pay discrimination of a midwife as compared to a hospital technician. In this case, following an assessment in terms of knowledge and skills, responsibility, effort and working conditions, the midwife and the technician were indeed found to perform work of equal value. A prima facie case of pay discrimination was thus found. However, the Labour Court accepted the employer’s objection that the higher wages of the technician were due to market arguments – the fact that there was an alternative labour market for technicians with significantly higher wages – was an acceptable motive to adjust the wages of technicians to a somewhat higher level. There was thus no discrimination. This may be compared with the third case, in which a nurse and a hospital technician were compared, and their work was found to be of equal value, but the wage difference could be explained by market reasons. Thus, in this case the wage discrimination claim was also dismissed. Although wage discrimination was not established in any of the rulings, the cases had other implications. The then head of the Swedish Association of Health Professionals noted that the publicity surrounding the complaints increased the public awareness of pay discrimination and influenced peoples’ attitudes.⁴⁹ And, as noted by the former Sex Equality Ombudsman, during the time the cases were pending in the Labor Court, the midwives received the highest pay increases they had ever received before.⁵⁰

As highlighted by scholars and some stakeholders over the years, the acceptance of the market argument has hampered the effect of the legal obligation for employers to carry out pay surveys to identify and eliminate pay

⁴⁸ Swedish Labour Court cases AD 1996 No 41; AD 2001 No 13 (C-236/98) and AD 2001 No 76.

⁴⁹ Fernvall, Eva, 'DN debatt: Vårdfacket tar avstånd från JämO: 'Jämställdhetslagen och Jämställdhetsombudsmannen är hinder i kampen mot lönediskriminering', *Dagens Nyheter* 1997-10-29.

⁵⁰ Norrby, Ann, 'Det behövs en särskild DO för arbetslivet', *Lag & Avtal* 4 (2017).



differences between women and men performing work to be regarded as equal or of equal value.⁵¹ In recent years, the market argument has gained increased attention in the discussion on the political level. A 2022 governmental inquiry tasked inter alia with reviewing the provisions on pay audits stressed that some jobs are structurally undervalued in the labour market and that this is reflected in the general wage levels – the market salary. The inquiry report concludes that there is reason to consider the need to clarify the conditions under which the market salary situation constitutes an acceptable explanation for wage differences, but it has not yet resulted in a legislative proposal.⁵²

12. Do the legislation or, if applicable, collective agreements for the care sector or for each care sector job make specific provision for reconciling work and family life?

- Do the legislation or, if applicable, collective agreements make any reference to reconciling work and family life “for women workers” in the care sector in general or in each care sector job? If so, please summarise or comment.

In line with the uniform character of Swedish labour law, the statutory right to leave related to the birth of a child or parenthood, in the Parental Leave Act (1995:584), applies equally in all sectors of working life. Benefits are paid out under the parental benefits scheme of the Social Security Code (2010:110). The right to *maternity leave* amounts to seven weeks prior to the estimated delivery date and seven weeks after the delivery (of which two weeks are compulsory).⁵³ Benefits are paid out at sick pay level under the parental benefits scheme of the Social Security Code (2010:110) where the days on maternity leave are included in the total amount of days with parental leave benefit.⁵⁴ In addition, maternity leave is provided for breastfeeding for as long as needed, which means that the employee must be allowed to interrupt work to breastfeed the child. In *connection with the birth of a child* there is a right to 10 days off for the other parent of the child (the father or, in same-sex relationships, the other mother). If the parent giving birth is a single parent, the leave can be taken up by another close relative. No special conditions are attached. Benefits are paid at sick pay level under the parental benefits scheme.⁵⁵ Each parent is entitled to take full-time *parental leave* from work until their child is 18 months old, with or without paid benefits.⁵⁶ For adoptive parents, the 18 months are calculated from the time when the employee receives the child into their care. In addition, all employees have the right to parental leave when taking up parental leave benefit, which amounts to 240 days for each parent (195 days at sick pay level and 45 days at a low fixed level). Of these days, 90 days are reserved for each parent, the rest of the days may be transferred between the parents at choice. Parental benefit days can be taken as whole, three quarters, half, one quarter or one eighth of a day. As regards part-time leave (but not full-time), the employer may in certain cases distribute the leave in a way that deviates from the wishes of the employee.⁵⁷ Parents must take most of the paid parental leave before the child reaches the age of four years (for adoptive parents, four years from the day when the child came into their care). However, 96 days may be saved until the child turns 12 years or has finished fifth grade (for both biological and adoptive parents). There is also a right to unpaid part-time leave for

⁵¹ See, for instance Svenaeus, Lena, (2018) *Konsten att upprätthålla löneskillnader mellan kvinnor och män: en rättsociologisk studie av regler i lag och avtal om lika lön*, Lunds universitet, Lund; Union for Professionals, Akademikerförbundet SSR (2013), *Lönekartläggning: försummad lagstiftning i kommuner och landsting*.

⁵² Government Inquiry Report SOU 2022:4 *Minska gapet. Åtgärder för jämställda livsinkomster*.

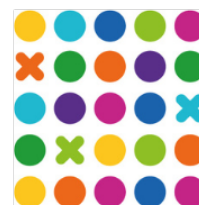
⁵³ Section 4 of the Parental Leave Act (1995:584).

⁵⁴ Income-related pregnancy and maternity benefits correspond to sick leave benefits according to Chapter 12 Sections 18 and 19 of the Social Security Code (SSC) (2010:110). For mothers who are not employed / have no income there is instead a benefit at the lower (guarantee) level. Sickness benefits amount to 77.6 % of the income up to approximately EUR 49 000 per annum (Chapter 28 Section 7.1 compared to Chapter 12 Sections 22 and 26 of the SSC).

⁵⁵ Chapter 13 Sections 10 and 14 and 33 of the Social Security Code (2010:110).

⁵⁶ Section 5 of the Parental Leave Act (1995:584).

⁵⁷ Section 14 of the Parental Leave Act (1995:584).



parents with children below 8 years.⁵⁸ In addition to the regular parental leave, there is a right to temporary parental benefit when *caring for a sick child* under the age of 12, with 60 benefit days per child, per year paid at sick pay level under the parental benefits scheme.⁵⁹

In addition to the statutory regulation, virtually all collective agreements top up the parental leave benefit. As is normally the case with collective agreements on occupational welfare, these are concluded on the intersectional level. In the regional and municipal sectors, to which a majority of the care workers belong, the collective agreement provides a supplement for 180 non-consecutive days per parent when receiving statutory parental leave benefit.⁶⁰ Incomes above the ceiling are supplemented for another 90 days per child at a level corresponding to the statutory benefit during parental leave. The parental leave benefit supplement must be taken while the child is still under two years of age. The collective agreement in the municipal sector lays down qualification periods of between nine months and one year. In the private sector, an insurance scheme for a parental leave benefit supplement jointly run by social partners pays a top-up for one consecutive period during which the employee is in receipt of statutory parental leave benefit on sick pay level.⁶¹ The consecutive period may be arranged so that the employee works some days in the week and is on leave the other days. The insurance is payable from 30 up to 180 days depending on the duration of the employment.⁶² As regards the right to parental leave, both collective agreements extends the notice period in the Parental Leave Act (1995:548) whereby employee shall give notice to their employer no later than two months prior to the start of the leave, if this is practicable.⁶³ The collective agreements extend this period to three months.⁶⁴ The collective agreement on parental benefit in the private sector provides similar rights.

There is also a right to leave / reduced hours when caring for severely sick relatives.⁶⁵ This right to leave is related to special care benefits at sick pay level in Chapter 47 of the Social Security Code. The right to leave covers a maximum of 100 full benefit days per caretaker (note that the days are linked to the recipient of the care, not to the carer). The days can be taken as full days or as 25, 50 or 75 % of a day. Anyone who is prepared to take time off work to care for an ill person is considered to have a sufficiently close relationship to be entitled to the right to paid leave, thus not only family members. This is different from what applies for the Act on the Right to Leave for Urgent Family Reasons (1998:209), which provides a right to time off due to urgent family reasons relating to severe illness or injury of a close family member that require the presence of the employee. There are no explicit time limits to this right, but its nature indicates that it is not for a long time. The right to leave due to urgent family reasons applies to all employees, without any qualification period. There is no

⁵⁸ Section 7 of the of the Parental Leave Act (1995:584).

⁵⁹ Chapter 13 Sections 2 and 33 of the Social Security Code (2010:110).

⁶⁰ Chapter 6 Section 29 of the Central Collective Agreement for the Municipal Sector 01 Oct. 2023 (AB 17). The agreement provides for 'parental leave benefit supplement' at 10% of the actual wage and is payable for 180 nonconsecutive days per child, and 'parental wage' which is applicable to incomes above the ceiling in the statutory scheme and amounts to almost 80% of the income above the ceiling for 270 days per child. The qualification period is one year or nine months, respectively.

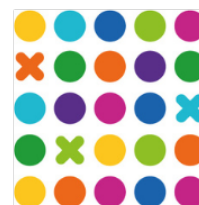
⁶¹ AFA Insurance, Work-related Insurance, https://www.afaforsakring.se/globalassets/sprak/f6285_forsak_ringar-i-arbetslivet-engelska.pdf; Finfa (2020) *Statutory and Collective Insurance Schemes for the Swedish Labour Market 2020*.

⁶² Collective Agreement between Municipal Workers Union Kommunal and Employers in the Care Sector Almega Vårdföretagarna, 1 June 2023 - 31 May 2025. Collective Agreement, Personal Assistants, between Fremia Municipal Workers Union Kommunal 1 October 2023 – 31 October 2025.

⁶³ Section 13 of the Parental Leave Act (1995:584).

⁶⁴ Chapter 6 Section 29, Central Collective Agreement for the Municipal Sector 01 Oct. 2023 (Allmänna bestämmelser, AB 17).

⁶⁵ Act on Leave for the Care of Relatives (1988:1465).



statutory right to be paid during the leave. In the regional and municipal sector, the collective agreement grants one paid day off to in connection with severe illness of a close family member.⁶⁶

The Parental Leave Act (1995:584) prohibits unfavourable treatment related to parental leave.⁶⁷ For carers' leave and leave for urgent family reasons, there is a prohibition against unfavourable treatment on the sole ground that the employee has exercised their right to leave.⁶⁸ With respect to these prohibitions, the Equality Ombudsman may represent an employee who so wishes and who is not represented by a trade union.⁶⁹

There are no provisions referring to reconciling work and family life 'for women workers', neither in general, nor in the care sector. The only provisions particularly addressing female employees are those concerning maternity leave and breastfeeding, described above in this Section, and those concerning pregnancy, described below in Section 15. Provisions on parental leave are gender neutral.

- Have there been any court rulings on this matter? If so, please summarise or comment.

There are no cases on gender specific rights for women, but a number of cases have dealt with discrimination and disfavourable treatment, most predominantly in relation to pregnancy and parental leave. Three cases can be mentioned, as they concerned employees in the care sector:

In the first case, a nurse had requested four weeks' leave to take care of a 16-year-old niece who required constant supervision due to serious mental and social problems.⁷⁰ When her application was rejected, the nurse nevertheless stayed home to take care of her niece, and she was therefore dismissed. The Swedish Labour Court found that the Act on the right to leave for urgent family reasons (1998:209) was not applicable. As the need for supervision had been long known to the nurse, the situation did not constitute a case of force majeure (however, the dismissal was found contrary to the Employment Protection Act).

The second case concerned physiotherapist who had been denied participation in occupational training because it was to take place just one week before her due date and the beginning of her parental leave.⁷¹ Referring to the explicit prohibition in the Parental Leave Act (1995:548) against disadvantages resulting from parental leave, the Swedish Labour Court explained that parental leave is particularly worthy of protection, in comparison to other types of leave. There is a limited scope for allowing disadvantages, but the conditions for applying the exception were not considered to be met and the employer was found liable for damages.

The third case concerned the right to wage development during parental leave. The claimant was a nurse represented by the Equality Ombudsman.⁷² After her parental leave, she had received a significantly lower wage increase than the year before. According to the preparatory works of the Parental Leave Act (1995:584) the wage development must be kept uninterrupted during periods of parental leave.⁷³ While referring to the preparatory works, the Labour Court also noted that the employer had demonstrated with conviction that the nurse had wrongly received a too high wage increase the previous year. Thus, her limited wage development for the year at hand was therefore found to be unrelated to the fact that she had been on parental leave.

⁶⁶ Chapter 6 Section 32, Central Collective Agreement for the Municipal Sector 01 Oct. 2023 (Allmänna bestämmelser, AB 17).

⁶⁷ Section 16 of the Parental Leave Act (1995:584).

⁶⁸ Section of 10 the Act on Leave for the Care of Relatives (1988:1465) and Section 4 of the Act on the Right to Leave for Urgent Family Reasons (1998:209).

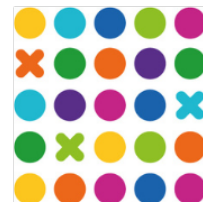
⁶⁹ Section 25 of the Parental Leave Act (1995:584), Section of 16 the Act on Leave for the Care of Relatives (1988:1465) and Section 8 of the Act on the Right to Leave for Urgent Family Reasons (1998:209).

⁷⁰ Swedish Labour Court judgement AD 2003 No 70.

⁷¹ Swedish Labour Court judgement AD 2009 No 45.

⁷² Swedish Labour Court judgement AD 2022 No 53.

⁷³ Government Bill Prop. 2005/06:185 *Förstärkning och förenkling - ändringar i anställningsskyddslagen och föräldraledighetslagen*, p. 88.



- Do the legislation or, if applicable, collective agreements, provide for different provisions in terms of work-life balance for staff in each of these care sector occupations compared to ordinary workers or workers in other production sectors? If so, please summarise or comment on the case(s).

The statutory legislation applies to all employees irrespective of sector, and no such differences have been detected in the collective agreements.

- Have there been any court rulings on differences in conciliation between the care sector and other sectors? If so, please summarise or comment on the case(s).

No such conflicts have been detected.

13. Have statistics or databases been published in your country on occupational accidents or illnesses arising from the work of personnel in the care sector as a whole or in each of the care sector jobs according to the workers' gender?

- If so, do the databases present aggregated data, micro-data, or both (aggregated data: data at national or regional level; micro-data: individual data, collected but not published, only available to researchers)?

- Are these databases public and freely accessible to everyone, or only to researchers?

- If published databases exist, please provide links and/or how to request them.

For occupational injuries and diseases, the Swedish Work Environment Authority is responsible for collecting and compiling statistics. The statistics, which is based on reports of occupational injuries made by individuals to the Social Insurance Agency and broken down by gender, sector, and occupational risk, is published (in Swedish) at the webpage of Sweden Statistics: <https://www.statistikdatabasen.scb.se/pxweb/sv/ssd/>

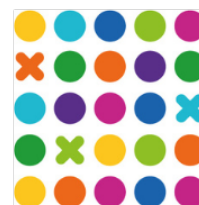
Every year, the Swedish Work Environment produces three comprehensive reports where the statistic material is analysed. These are published at the web page of the authority: <https://www.av.se/arbetsmiljoarbete-och-inspektioner/arbetsmiljostatistik-officiell-arbetsskadestatistik/>

14. Describe or comment on any statistics or databases you have found regarding the participation of male and female workers in the care sector workforce, either in general, or in relation to each of the various occupations that make up the care sector.

For 2022, men were more often affected by occupational accidents with a fatal outcome than women and reported more occupational accidents leading to sick leave. Women reported more occupational diseases and occupational accidents without sick leave than men.⁷⁴

For the health and care sector, COVID-19 has had significant impact on the statistics in this area. In 2020, the number of reported occupational *diseases* increased sharply for both women and men, but significantly more for women. This can be entirely explained by large number of reports caused by infections linked to COVID-19. In 2021, then, the number of reports of occupational *accidents* increased significantly, especially among women. The reason was that side effects of the COVID-19 vaccine were reported as occupational accidents. Historically, men have reported more cases of occupational accidents, but in 2021 women reached a record high, with almost the same number as men. Many of these cases come from the health and care sector.

⁷⁴ Facts collected from Swedish Work Environment Authority (2023) *Arbetsmiljöstistik Rapport 2023:01. Arbetsskador 2022, Occupational accidents and work-related diseases.*



In 2022, the number of occupational accidents were back at about the same level as in 2019, the year before COVID-19. In total for all sectors men reported about 7.7 occupational accidents with sick leave per 1 000 employed men, and for women the corresponding number was 6.1. In a sectoral comparison, women reported the most accidents per 1,000 employees in 'Transport and storage' (16.7 accidents), followed by 'Mining and quarrying' (10.0 accidents), and then 'Water supply; sewerage, waste management, etc.' (9.6 accidents). For the sector 'Health and care: social services', the corresponding figure was 7.8 accidents.⁷⁵

Occupational diseases have also decreased but are still at a higher level than before COVID-19; in total for all industries, about 4.9 cases per 1 000 employed women and about 1.7 cases per 1 000 employed men. The sector with the most reported occupational diseases per 1 000 employed women in 2022 was 'Health and care: social services' (9.6 reports). The most prominent exposure factor for occupational diseases was 'Chemical and biological factors', which in 2022 alone accounted for almost three-fifths of all notifications in the sector. Before COVID-19, this exposure factor accounted for a small share of notified occupational diseases but has grown significantly in 2020 and 2021.⁷⁶ The second most common cause of occupational diseases in the sector 'Health and care: social services' was 'Organisational and social factors', which, in terms of the number of reported cases, has remained relatively constant in recent years. Reported occupational diseases attributed to 'Organisational and social causes' are often related to excessive workloads or work pace (stress) and problems in workplace relations.

15. Do the legislation or, if applicable, collective agreements, for each of these occupations in the care sector, make specific provision for women in terms of occupational safety and health? If so, please provide details.

Occupational safety and health regulation is gender neutral, and there is no particular legislation regarding women in their capacity as women. However, for women who are pregnant, breastfeeding or have recently given birth, protective safety and health measures are realized through a combination of the Work Environment Act (1977:1160), the Parental Leave Act (1995:584) and the scheme on pregnancy benefits in Chapter 10 of the Social Security Code (2010:110).

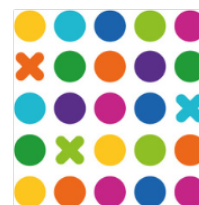
The Work Environment Act (1977:1160) is gender neutral and requires the employer to provide a good working environment adapted to the individual employee and his or her individual needs.⁷⁷ Provisions issued by the Work Environment Authority provide detailed rules for work tasks and groups of workers, one of them being pregnant and breastfeeding workers.⁷⁸ The provision AFS 2007:5 Pregnant and Breastfeeding Workers requires employers to conduct a risk assessment of the work tasks and, if required, take preventive measures for an employee who is pregnant, gave birth in the last 14 weeks, or who is breastfeeding. If the risk cannot be eliminated by protective measures, the employee must be temporary relocated to other work tasks. If the risks prevail, the employer may not allow the employee to work. A general prohibition applies for work that includes contact with lead and work where the employee risk being exposed to rubella or toxoplasmosis unless she is immune against these agents. An employee who cannot be relocated must be granted leave of absence with

⁷⁵ Among men too, 'Transport and storage' reported the highest number of occupational accidents with sick leave per 1 000 employees (16.7 accidents), followed by 'Water supply; sewerage, waste management and remediation activities' (14.2 accidents), and 'Renting, real estate, travel and other support service activities' (13.9 accidents).

⁷⁶ The same pattern applies to men, 'Health and care: social services' is by far the sector where most occupational diseases are reported (6.4 notifications), and 'Chemical and biological factors' are the dominant explanation.

⁷⁷ Chapter 2 Section 1 and Chapter 3 Section 3 of the Working Environment Act (1977:1160).

⁷⁸ AFS 2007:5 Pregnant and Breastfeeding Workers, with later amendments. The mandate to issue the regulations, Swedish Work Environment Authority Provisions AFS, is given in Chapter 4 Section 6 of the Working Environment Act (1977:1160).



statutory pregnancy benefit.⁷⁹ Detailed rules on pregnant and breastfeeding employees can also be found in other Work Environment Authority Provisions that concerns specific types of work. In the health care sector, such provisions concern, for instance: work posture and workload ergonomics; other physical factors; psychosocial factors; radiation; forceful shocks and vibrations; noise; nightwork; infectious agents including a prohibition against any risk of exposure to rubella or toxoplasma; chemical substances including a prohibition work involving lead.⁸⁰ These provisions must be considered by the employer when carrying out the risk assessment in relation to pregnant and breastfeeding employees.

For a pregnant or breastfeeding woman who has been prohibited from continuing her regular work under the work environment regulation or otherwise cannot carry out physically demanding work duties and who cannot be relocated, the Parental Leave Act (1995:584) provides a right to leave of absence.⁸¹ In terms of economic compensation, the Social Security Code (2010:110) includes a special benefit scheme on pregnancy benefits for pregnant workers during the leave. The scheme applies from day 60 of the pregnancy until 10 days before the expected delivery date. After that date, the ordinary parental leave scheme applies.

Another area that merits mention in the context of health and safety in the workplace is protection against harassment. Harassment based on sex and sexual harassment are considered psychological occupational safety and health risks and categorized as forms of victimization. Employers are required to take actions to counteract work environment risks of victimization and are obliged to establish procedures for cases where victimization occurs, and make the procedures known to all employees.⁸² In parallel with the occupational health and safety legislation, there is also a protection in the Discrimination Act (2008:567). When conducted by the employer, harassment and sexual harassment constitutes discrimination, for which the employer can be held liable.⁸³ When conducted by an employee against another employee, it gives rise to an obligation for the employer to investigate the allegations and, where appropriate, take measures to prevent future harassments. An employer who fails to meet these requirements can be held liable.⁸⁴ The Discrimination Act (2008:567) also requires employers to take active preventive measures to prevent harassment or to sexual harassment.⁸⁵ This obligation does not correspond to any particular rights for individual employees, but is a matter for supervision of the Equality Ombudsman.

16. Have there been any court rulings on this matter? If there have been court rulings, please summarise or comment on them.

One important case from the care sector concerned the right to pregnancy allowance when working tasks differ over the week.⁸⁶ The claimant was a nurse working full-time: 75 % of her working hours in a residential care home and 25 % in home healthcare. Due to pregnancy, she could no longer cope with the strenuous work in home health care. As her employer could not relocate her, she applied for a one-quarter pregnancy allowance

⁷⁹ Section 18 and 20 of the Parental Leave Act (1995:584), Chapter 10 Sections 2, 3, 3a of the Social Security Code (2010:110).

⁸⁰ AFS 2012:2 Load ergonomics; AFS 1981:14 Protection against damage from falls; AFS 1993:2 Violence and threats in working life; AFS 2015:4 Organisational and social work environment; AFS 2016:3 Electromagnetic fields; AFS 2020 Workplace design; AFS 2005:15 Vibrations; AFS 2005:16 Noise; AFS 1982:17 Records of on-call time, overtime and additional time; AFS 2019:3 Medical checks in the workplace; AFS 2018:4 Risk of infection; AFS 2011:19 Chemical work environment risks; 2005:5 Cytostatic and other drugs with lasting toxic effects; AFS 2001:7 Anaesthetic gases; and AFS 2018:1 Sanitary thresholds.

⁸¹ Sections 18 and 19 of the Parental Leave Act (1995:584).

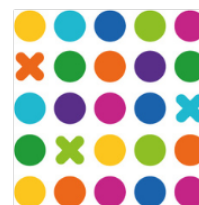
⁸² AFS 1993:17 Victimization at work, repealed through AFS 2015:4 Organizational and social working environment. Victimization is defined as 'recurrent reprehensible or distinctly negative actions, which are directed against individual employees in an offensive manner and can result in those employees being placed outside the workplace community'.

⁸³ Chapter 1 Section 4 p. 4 and 5 of the Discrimination Act (2008:567).

⁸⁴ Chapter 2 Section 3 of the Discrimination Act (2008:567).

⁸⁵ Chapter 3 Section 6 of the Discrimination Act (2008:567).

⁸⁶ Swedish Supreme Administrative Court judgement 2018:58.



corresponding to the days when she would have worked in home health care. She was granted one quarter of the pregnancy allowance but only during the days when she was absent from work; she would thus only be compensated for a quarter of her daily salary on the days she would have worked in home care, even though she had to give up that work completely. The Supreme Administrative Court found that although the right to compensation should be calculated as a quarter per calendar day, the calculation should include all days in a given period regardless of how the work tasks were distributed over the days of the week.

In relation to harassment, one case from the Swedish Labour Court is particularly relevant for the area of this study.⁸⁷ It concerned a personal assistant employed by a private company who claimed to have been subjected to sexual harassment and harassment based on ethnicity by the cohabiting partner of the assistance recipient. The question was whether the employer had a duty to investigate and take measures under the Discrimination Act, which, in practice, would mean that the cohabitant of the assistance recipient would have been equated with an employee at the employer. The Labour Court concluded that there was no such duty, but at the same time the Court stressed that the employer is responsible for the health and safety at the workplace under the Work Environment Act (1977:1160) which was not invoked in the case.

17. Is there any specific provision for termination of contract that differentiates between men and women in each of these occupations? If so, please provide details.

Statutory legislation employment on protection is uniform for virtually the entire labour market and the same provisions apply in the public and the private sector. The exception the small group of personal assistants for persons with a disability, who are employed directly by the care-taker. In this group, 27 % of the employees are a relative of the care recipient, of whom 61 % live in the same household all or part of the time.⁸⁸ For this group, a specific act on employment protection (and working time) applies, which do not require just cause for dismissal and where the notice period many times is shorter than the normal.⁸⁹

Collective agreements on working conditions and employment protection are concluded on sectoral level.

There are no sex-specific provisions on employment protection, and thus no explicit prohibition against dismissal particularly protecting pregnant women. However, any dismissal under Swedish law requires just cause according to Section 7 of the Employment Protection Act (1982:80). For dismissals based on reasons related to the employee themselves (personal grounds), there are strict requirements. Pregnancy or maternity, or related shorter or longer absence from work, are never considered just cause for dismissal. A dismissal on the ground of pregnancy or maternity, or related shorter or longer absence from work, would thus be in contravention with the general provisions on employment protection. It would also amount to direct discrimination and constitute unfavourable treatment in connection with parental leave.⁹⁰ A notice of termination of contract or a summary dismissal solely based on reasons related to parental leave may also be declared invalid if the employee so requests.⁹¹ Should dismissal be based on grounds that are permissible, such as redundancy, the notice period will not start until the employee has returned from full-time maternity or parental leave. The employment cannot thus cease during maternity leave or parental leave.⁹² For personal assistants of a disabled person, who are employed directly by the carer (often these employees are relatives of the carer); these employees are covered by a specific law on employment protection and working time Act

⁸⁷ Swedish Labour Court judgement AD 2017 nr 61.

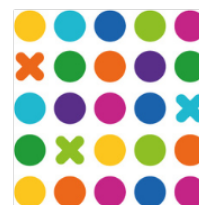
⁸⁸ Government Inquiry Report SOU 2020:1 *Översyn av yrket personlig assistent. Ett viktigt yrke som förtjänar bra villkor.*

⁸⁹ Act on Working Time etc. in Domestic Work (1970:943).

⁹⁰ Chapter 2 Section 1 of the Discrimination Act (2008:567) and Section 16 of the Parental Leave Act (1995:584).

⁹¹ Section 17 of the Parental Leave Act (1995:584).

⁹² Section 11 of the Employment Protection Act (1982:80).



(1970:943) on working time etc. in domestic work, the employment protection is less comprehensive. In contrast to what applies under the uniform employment protection legislation, under this specific law, the employer may terminate the employment without a cause. The notice period is at least one month and increases with the number of years in employment. This corresponds to the uniform legislation, but the maximum notice period is only three months (if the employment has lasted for ten years) in comparison to the maximum of six months provided for other employees. In addition, and opposite to what applies under the uniform legislation, an employment may cease also during maternity leave or parental leave.

18. Have there been any court rulings on this matter? If there have been court rulings, please summarise or comment on them.

There have been rulings confirming the right to employment protection in connection with pregnancy and parental leave. However, these rulings refer to the matter in general and do not highlight questions of particular importance for the care sector.

19. Is there any specific provision for social protection that differentiates between men and women in each of these occupations? (The term social protection refers to benefits provided by the State such as unemployment benefits, social security, or social assistance, etc.).

No. Swedish social security law is gender neutral.

20. Have there been any legal disputes in your country concerning the granting of social benefits to staff working in the care sector that have led to direct or indirect discrimination on grounds of sector? If so, please summarise or comment on the case(s).

No such conflicts have been detected.

21. If there are Equality Bodies in your country, do you know if they have undertaken any action, report, monitoring, or judicial activity in relation to the rights of women workers in care occupations? If so, please summarise or comment.

The equality body in Sweden, the Equality Ombudsman, has not published any reports or conducted general monitoring in relation to the rights of women workers in care occupations.

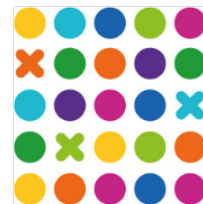
Quite recently, the Equality Ombudsman has litigated before the Swedish Labour Court in the case mentioned above in Section 12 on wage development during parental leave.⁹³

22. Comment whether the care sector in your country complies with international and EU obligations regarding non-discrimination on the grounds of sex in the field of employment and social protection. Describe the main regulations in this field and refer to whether equal working conditions (e.g., pay) are expressly provided for specifically in the care sector.

For an overview of the legislation on non-discrimination on the grounds of sex and equality between men and women, see above in Section 1. The legislation is universal for the whole labour market, and does not refer specifically to the care sector.

In terms of the implementation of EU law on non-discrimination on the ground of sex, the 2014 Recommendation on Pay Transparency has been implemented in relation to the Swedish industrial relations

⁹³ Swedish Labour Court judgement AD 2022 No 53.



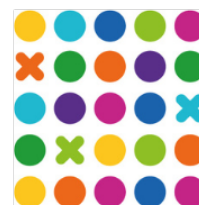
system, stressing the autonomy of the social partners.⁹⁴ This means that there is no individual right to information on wages, but that right instead belongs to the trade union. In addition, although the social partners have chosen to include the matter of equal pay in collective bargaining, there is no legal requirement for them to do so. This is because the principle of the autonomy of the social partners prevents the state from interfering in the collective bargaining process. A governmental inquiry to prepare a legislative proposal for the implementation of the 2023 Directive on pay transparency will deliver its report in late spring 2024.⁹⁵ In the area of work life balance, national law in some respects exceeds the requirements of EU law; not least the long duration of the periods of leave and the generous economic compensation should be mentioned. In comparison to other EU countries, penalties are generally relatively low in all areas of law including the in area of pregnancy and maternity rights and family-related leave.

As regards international conventions it can be noted that Sweden has ratified the Domestic Workers Convention No. 189, after adopting necessary legislative changes in the Act on Working Time etc. in Domestic Work (1970:943).⁹⁶

⁹⁴ 2014/124/EU: Commission Recommendation of 7 March 2014 on strengthening the principle of equal pay between men and women through transparency.

⁹⁵ Government Inquiry Remit Dir. 2023:68 *Genomförande av EU-direktivet om stärkt tillämpning av principen om lika lön för kvinnor och män för lika eller likvärdigt arbete genom insyn i lönesättningen och efterlevnadsmekanismer.*

⁹⁶ Government Bill Prop. 2017/18:272 *ILO:s konvention om anständiga arbetsvillkor för hushållsarbetare.*



MIGRANT STATUS

Attention – Authors' note:

A) General information on migrants in the care sector is requested in this section; broadly speaking, these are non-EU third country nationals (where appropriate, EU nationals will be included). In some questions, nationals of the countries covered by the report will also be included.

B) Some questions refer to undocumented migrants (or irregular migrants): See notions defined above. In general terms undocumented migrants are those who do not have a residence and work permit in the host country, while documented migrants (or regular migrants) have been granted a residence permit.

C) Some of the questions refer to legislation on foreigners or immigration: by this we mean the legislation that establishes the framework of rights and duties of foreigners in the country; requirements for gaining entry to and working in the country; requirements for bringing family members into the country, etc.

D) Some questions may be answered not only by referring to the specific legislation on aliens, but also to other legislation, such as, for example, the legislation established by each country in the field of human rights or labour rights.

1. Provide a brief overview of your national legislation on anti-discrimination on the grounds of race or ethnic origin, religion, or belief, in the field of employment or occupation.

The Instrument of Government imposes a constitutional obligation for public entities to counteract all discrimination on the ground of skin colour, national or ethnic origin, language or religious affiliation. It also prohibits negative differential treatment on the grounds of ethnic origin, skin colour or other similar characteristic in laws or other regulations.⁹⁷ These provisions does not give rise to individual rights and cannot be a ground for individual complaints or claims for damages.

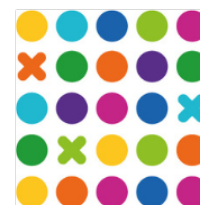
As regards working life, the first statutory legislation prohibiting discrimination the grounds of ethnicity was introduced in 1994. In 1999, it was replaced with an amended act which also included discrimination on the grounds of religion or other belief.⁹⁸ Today, the protection is provided in the Discrimination Act (2008:567), which came into force in 2009 and bans discrimination on the grounds of sex, transgender identity or expression, ethnicity, religion or other belief, disability, sexual orientation, and age.⁹⁹ For the scope of application in working life, and for the various forms of discrimination, see above, Part I, Gender, Section 1.

2. Also provide a brief overview of the legislation concerning the rights and duties of “foreigners”: EU third country nationals (by this we mean the legislation that establishes the framework of rights and duties of foreigners in the country; requirements for gaining entry to and working in the country; requirements for bringing family members into the country, etc.) In terms of national legislation on foreigners or migrants, please make a brief overview of whether it contains any sections on non-discrimination, as well as the rights of foreigners in employment.

⁹⁷ Chapter 1 Section 2(5) and Chapter 2 Section 12 of the Instrument of Government (1974:152).

⁹⁸ Act on Measures against Discrimination in Working Life on Grounds of Ethnic Origin, Religion or other Belief (1999:130) replacing the Ethnic Discrimination Act (1994:134); Government Bill Prop 1997/98:177, *Ny lag om åtgärder mot etnisk diskriminering i arbetslivet*.

⁹⁹ Discrimination Act (2008:567); Government Inquiry Report SOU 2006:22, *En sammanhållen diskrimineringslagstiftning*; Government Inquiry Report SOU 2002:43 *Ett utvidgat skydd mot diskriminering*.



In this report, the following concepts will be used:

alien (*utlänning*) = non-Swedish national in general¹⁰⁰

immigrant (*invandrare*) = foreign-born person residing in Sweden

labour immigrant (*arbetskraftsinvandrare*) = third country national, right to reside based on working permit¹⁰¹

Initially, it should be noted that Swedish migration policy is currently undergoing comprehensive changes, which are supported by a broad political majority, and where the restructuring of labour immigration is an important element.¹⁰² The legal framework and policy can be expected to change in various ways in the near future, in line with the Government's aims to reduce low-skilled labour migration while increasing high-skilled labour migration, curb misuse, and reduce turnaround time for applications. The following Section provides a brief overview of the current legislation under the Aliens Act (2005:716) and the Aliens Ordinance (2006:97).

In most cases, a residence permit is temporary, with the possibility of extension. After a certain number of years of residence (normally three years) the applicant may apply for a permanent residence permit, subject to requirements regarding livelihood and an orderly life. Such a permit does not need to be extended but can be revoked if conditions for the permit are no longer met, if the applicant no longer live in Sweden, or if the applicant provided incorrect information in their original application.¹⁰³ There are four main routes to applying for a residence permit in Sweden: as an asylum seeker or refugee, as a family member, as a student, and as a labour immigrant. While labour immigrants reside in Sweden for the explicit reason of working, many of those who have arrived in the country due to other reasons are also included in the work force.

An asylum seeker will be assessed a – refugee if the person has well-founded reasons to fear persecution due to race, nationality, religious or political beliefs, gender, sexual orientation, or affiliation to a particular social group – or a person in need of subsidiary protection because a risk of being sentenced to death, a risk of being subjected to corporal punishment, torture or other inhumane or degrading treatment or punishment, or as a civilian, a serious risk of injury due to armed conflict, all in line with the Geneva Convention and the EU Asylum Qualifications Directive 2011/95/EU.¹⁰⁴ Persons granted refugee status or subsidiary protection status declaration will be granted temporary residence permit, for three years or 13 months respectively, with a possibility for extension.¹⁰⁵ In addition, each year, a number of quota refugees within the framework of the resettlement programme of the UNHCR are granted a permanent residence permit.¹⁰⁶ Persons covered by the EU Directive on the status of long-term resident third-country national are granted a permanent residence permit.¹⁰⁷ Persons fleeing the war in Ukraine are granted a temporary residence permit under specific rules implementing the Temporary Protection Directive for displaced persons from Ukraine.¹⁰⁸ As a rule, persons

¹⁰⁰ Aliens Act (2005:716).

¹⁰¹ Government Bill Prop. 2021/22:284, *Ett höjt försörjningskrav för arbetskraftsinvandrare*.

¹⁰² Government Declarations on Taking Office 2022; Government Inquiry Report SOU 2024:12 *Mål och mening med integration*; Government Bill Prop. 2023/24:1 Budgetproposition, Utgiftsområde 8, Migration, p. 19.

¹⁰³ Chapter 7 of the Aliens Act (2005:716).

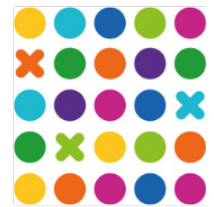
¹⁰⁴ Chapter 4 Sections 1 and 2 of the Aliens Act (2005:716); Convention relating to the Status of Refugees (189 U.N.T.S. 150, entered into force April 22, 1954). United Nations. 1951; Directive 2011/95/EU on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (recast).

¹⁰⁵ Chapter 4 Sections 3 and 3 a, Chapter 5 Sections 1 and 1a of the Aliens Act (2005:716).

¹⁰⁶ Chapter 5 Section 2 of the Aliens Act (2005:716).

¹⁰⁷ Chapter 5 Section 2b of the Aliens Act (2005:716), Directive 2011/51/EU amending Council Directive 2003/109/EC to extend its scope to beneficiaries of international protection.

¹⁰⁸ Chapter 21 Sections 2, 3, 4, 6 and 7 of the Aliens Act (2005:716); Council Directive 2001/55/EC on Minimum Standards for Giving Temporary Protection in the Event of a Mass Influx of Displaced Persons and on Measures Promoting a Balance of Efforts Between Member States in Receiving such Persons and Bearing the Consequences Thereof; Council Implementing



coming to Sweden to seek shelter may take up a work. Both a permanent residence permit and a temporary residence permit for persons with refugee or subsidiary protection status, or for those who have fled Ukraine, allows for work in Sweden during the period of the permit without a separate work permit. Asylum seekers may apply for an exemption from the requirement of a work permit while waiting for the assessment.¹⁰⁹

A family member of someone living in Sweden can apply for a residence permit. Family members are spouse, registered partner, or cohabitant, all of whom, as well as the person living in Sweden, must have reached the age of 21 (unless they jointly have children under the age of 18), along with children under 18 or, for labour immigrants, unmarried children under 21. Siblings or parents of adult persons normally does not count as family members. The person living in Sweden must fulfil a maintenance requirement of an income that covers their own cost of housing and living as well as for family members. The assessment is based on standard cost for housing depending on the family size and the location in Sweden, along with a standard cost of living for each adult and child in the household.¹¹⁰ The person living in Sweden must either be a Swedish citizen, have a permanent residence permit, or a temporary residence permit with refugee or subsidiary protection status. For persons with a residence permit to study or work, family members can be granted residence permit for the same period as the student or labour immigrant, and they can apply for a work permit.

A third country national completing university studies for more than three months require a residence permit, granted before entering Sweden. The duration of the permit is linked to the study period and can be extended. Doctoral students may apply for permanent residence permit after four years of residence. Anyone holding a residence permit for studies may take up work while studying, without a work permit. After the studies, residence permit may be granted to search for work or explore possibilities to start a business.¹¹¹

Normally, an application for residence permit to work in Sweden must be granted before entering the country, but there are certain exceptions.¹¹² For asylum seekers who has been denied asylum, currently, there is a possibility to apply for work permit without leaving Sweden; this is called a 'track change' with reference to the change from the asylum track to the labour migration track. This possibility will likely be abolished from 1 June 2025.¹¹³ Other groups of third country national covered by special provisions on residence and work permits are employees within the framework of an intra-corporate transfer (ITC) and highly skilled employees eligible for EU Blue Card. As regards the latter group, the current national provisions implement the 2009 Blue Card Directive, while the process of implementing the 2021 Blue Card Directive into Swedish law is underway.¹¹⁴ There is also a possibility to apply for work permit from within Sweden for occupations for which there is a shortage of manpower, according to a list issued and updated by the Swedish Migration Agency in collaboration with the Swedish Public Employment Agency.¹¹⁵ For labour immigrants not covered by any of these special rules, before entering into Sweden, the applicant must demonstrate an employment contract, signed by both

Decision (EU) 2022/382 of 4 March 2022 establishing the existence of a mass influx of displaced persons from Ukraine within the meaning of Article 5 of Directive 2001/55/EC, and having the effect of introducing temporary protection.

¹⁰⁹ Chapter 5 Section 4 of the Aliens Ordinance (2006:97).

¹¹⁰ Chapter 5 Sections 3 and 3b of the Aliens Act (2005:716). Swedish Migration Authority Provisions MIGRFS 2022:8 on the Maintenance Requirement for Family Member Immigration.

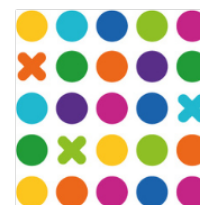
¹¹¹ Chapter 5 Section 5, and Chapter 5b Sections 5 and 8 of the Aliens Act (2005:716). Both during the studies and for the period after, the person must have sufficient means of subsistence as well as means for their return travel, see Chapter 5b Section 9.

¹¹² Chapter 4 Section 2 of the Aliens Act (2005:716).

¹¹³ Government Inquiry Report SOU 2024:15 *Nya regler för arbetskraftsinvandring*.

¹¹⁴ Directive EU/2021/1883 on the conditions of entry and residence of third-country nationals for the purpose of highly qualified employment, and repealing Council Directive 2009/50/EC; Government Inquiry Report Ds 2023:6, *Genomförande av det nya blåkortsdirektivet*. Currently, the lowest monthly salary for granting the EU Blue Card is 5090 EUR, Swedish Migration Agency Provisions MIGRFS 2023:8; Chapter 5 a Section 5 of the Aliens Ordinance (2006:97).

¹¹⁵ Chapter 5 Section 18 of the Aliens Act (2005:716); Chapter 5 Section 12 of the Aliens Ordinance (2006:97); Swedish Migration Agency Provisions MIGRFS 2023:7.



parties, where the terms of employment, wage and insurances including pensions are in line with the collective agreement or practices in the relevant profession or industry. The wage level must also be above a wage floor. To counteract exploitation and abuse, strengthen the position of labour immigrants, prevent the salaries of labour immigrants from being undercut, and discourage competition with low salaries, the wage floor has recently been increased, following a proposal put forward by the previous Government and adopted with a significant majority in the Parliament.¹¹⁶ Since November 2023, for the granting of a work permit, the wage must be at least at least 80 % of the median salary published by Statistics Sweden, which means a lowest monthly salary of around 2700 EUR. This is irrespective of whether the employment is full-time or part-time.¹¹⁷ A work permit is linked to a specific employer and relates to a specific type of work. It is granted for the duration of the employment but for a maximum of two years. Thereafter, it can be renewed and is then linked to a specific type of work only, and not to a specific employer.¹¹⁸ For work as a personal assistant for a person with a disability, additional requirements apply to prove that the employment is legit.

Once again, there is reason to emphasise that major changes to the Swedish migration policy currently are being prepared and implemented. 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.¹¹⁹ 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.¹²⁰ For occupational groups where there is a labour shortage, the proposal is that the Government could instead stipulate that the wage must correspond to the lowest wage set out in a collective agreement or established practice in the profession or industry. This exception could be of relevance for the care sector, where the matter of labour shortage is high on the agenda. Sweden's municipalities and regions estimate that by 2031, due to retirements within the sector and due to a general increased need of staff, they will need to recruit more than 30 000 new nurses, 93 000 assistant nurses and 20 000 new care assistants.¹²¹ Following a number of different reports on abuses of the labour immigration system specifically identifying fraudulent use of work permits for personal assistants for persons with a disability, the government inquiry report has also proposed that from June 2025 it shall no longer be possible to obtain a work permit to work as a personal assistant.¹²²

3. Make a brief social commentary on the presence of migrant populations (both EU and non-EU nationals), in employment in your country.

¹¹⁶ Chapter 6 Section 2 of the Aliens Act (2006:716). Government Bill Prop. 2021/22:284, *Ett höjt försörjningskrav för arbetskraftsinvandrare*.

¹¹⁷ Chapter 5 Section 8a of the Aliens Ordinance (2006:97). The previous floor was 1300 EUR. Government promemoria of 4 May 2023 on changes of the Aliens Ordinance (2006:97) *Ett höjt försörjningskrav för arbetskraftsinvandrare*.

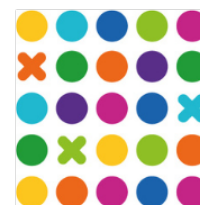
¹¹⁸ Chapter 6 Section 2 and 4a of the Aliens Act (2006:716).

¹¹⁹ 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.

¹²⁰ Proposed to enter into force in January 2025. Government Inquiry Report SOU 2024:15 *Nya regler för arbetskraftsinvandring*.

¹²¹ Swedish Association of Local Authorities and Regions (2022), *Välfärdens kompetensförsörjning. Personalprognos 2021–2031 och hur välfärden kan möta kompetensutmaningen*, p. 38.

¹²² Government Inquiry Report SOU 2024:15, *Nya regler för arbetskraftsinvandring*. National Intelligence Center, *OLLE – Strategisk rapport om hur personlig assistans och arbetstillstånd otillbörligt och systematiskt utnyttjas av organiserad brottslighet*, Stockholm, Swedish Police.



Throughout the 2000s, the number of foreign-born people in Sweden has increased from 1 million persons in 2000 to nearly 2.2 million in 2023, corresponding to 20 % of the population.¹²³ Of these persons, the majority are born outside the EU. Third-country immigrants make up around 15 % of the total population, making Sweden the EU countries with the third largest proportion of non-European residents, after Luxembourg and Malta.¹²⁴ Overall, the largest countries of immigration to Sweden are Syria and Iraq, but there is also a significant amount of people born in Iran, Somalia, and Afghanistan. In the last few years, there have been an increasing number of legislative and policy changes aimed at reducing immigration and change its composition. In 2023, the total number of immigrants was close to 100 000.

The age structure of the immigrant group differs from the population born in Sweden. A large proportion of the foreign-born in Sweden are aged between 25 and 34 years, which means that this group has a higher proportion of working age, and comparatively fewer young children and older people.¹²⁵ Unemployment is significantly higher for those born abroad, and particularly for those born outside Europe. In 2022, the unemployment rate for persons born in Sweden was 4.6 %, while it was 16.0 % for foreign-born. For those born outside Europe, the unemployment rate was 21.9 %, and in February 2024, this group made up 40 % of all persons registered as unemployed.¹²⁶

At the same time, the foreign-born makes up an important part of the workforce: around 20 % of the population in employment, and this share is expected to increase over the coming years.¹²⁷ In 2022, more than 70 % of those born in Sweden were employed, with slightly below 72 % for men and slightly below 69 % for women. For foreign-born people, the corresponding figures were just over 67 %, with just over 72 % of the men and just below 62 %.¹²⁸ However, within the category foreign-born there are great varieties with respect to region of origin. Unemployment and long-term unemployment are significantly more common among those born outside Europe, particularly in Africa or Asia.¹²⁹ In addition, of the persons in this group who are employed, a large share has a fixed-term employment contract and thus a weak position in the labour market.¹³⁰ The sectors with the highest proportion of foreign-born employees are restaurants and catering, healthcare and care, cleaning, as well as storage and terminals, and these are also the sectors with the highest proportion of people born outside Europe.¹³¹

In 2022, the Swedish Migration Agency granted 37 103 working permits for third country labour immigrants, of which two thirds regarded new applications and one third were prolongations of existing permits. The most common occupations were berry picking and planting, followed by IT development, and occupations within engineering. Only a very low number of working permits regarded occupations in the care sector: in total 60 permits were granted for assistant nurses and 160 permits for the broader category of cleaning and home service staff, for which the proportion of people actually working in the care sector is unclear.¹³²

¹²³ Statistics Sweden, Swedish and foreign-born population by region, age and sex 2000 – 2023.

¹²⁴ Eurostat, Population on 1 January 2024 by age group, sex and country of birth.

¹²⁵ Statistics Sweden, Swedish and foreign-born population by region, age and sex 2000 – 2023.

¹²⁶ Government Bill Prop. 2023/24:1 *Budgetproposition, Utgiftsområde 14 Arbetsmarknad och arbetsliv*, p. 12. Swedish Public Employment Service, unemployment statistics February 2024.

¹²⁷ Statistics Sweden (2023) *Sveriges framtida befolkning 2023–2070*, Demografiska rapporter 2023:2.

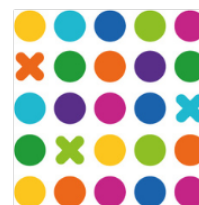
¹²⁸ Statistics Sweden (2023) *Arbetsmarknadssituationen för befolkningen 15–74 år AKU 2023*, p. 17.

¹²⁹ Both among unemployed and long term unemployed, there is a significant over-representation of persons born in Somalia, Ethiopia, Eritrea, Iraq, Iran and Syria, Swedish Public Employment Agency (2021), *Ett decennium med etableringsuppdraget*. Arbetsförmedlingen analys 2021:24.

¹³⁰ Swedish Public Employment Services, *Arbetsmarknadsutsikterna hösten 2023 Utvecklingen på arbetsmarknaden 2023–2025*, p. 43; Government Inquiry Report SOU 2023:24 *Etablering för fler – jämställda möjligheter till integration*, p. 130.

¹³¹ Swedish Occupational Register.

¹³² Government Inquiry Report SOU 2024:15 *Nya regler för arbetskraftsinvandring*, p. 100 ff.



4. Finally, make a brief social commentary on the presence of migrant populations (both EU and non-EU nationals), in the care sector in your country.

Persons born abroad make up a larger share of the employees in the health and social care sector than in other sectors, and this applies particularly for persons born outside Europe. In the total population, persons born outside Europe represent 15 percent, in entire labour market they represent 9 percent, of the employees in public care 12.5 percent and in private care they represent just over 20 percent.¹³³ One explanation mentioned for the high representation among those employed in private care is that many private healthcare companies are run by people born in non-European countries; around 12 percent of operational managers in the private health and care sectors are born outside Europe. In health care and care companies, some of which have a specific language or cultural profile, managers with a foreign background are much more likely to employ persons with a foreign background.¹³⁴ Among personal assistants for persons with a disability, one in four were born outside Europe.¹³⁵ A large proportion of these, 36 percent, work directly for the caretaker. This figure contrasts sharply to what applies for total number of personal assistants, where only 4 percent work directly for caretaker. This has been explained by the fact that people with disabilities born abroad are more likely to have personal assistants who are also their relatives.¹³⁶

Among those born abroad who work in the health and care sectors, only very few are labour immigrants, i.e. people who's right to reside in Sweden is based on a work permit. Between 2019 and 2023, the yearly average of work permits issued by Swedish Migration Agency was 29 permits for nurses, 63 permits for assistant nurses, 43 permits for care assistants and 103 permits for carers including personal assistants for persons with a disability.¹³⁷ As mentioned in Section 2 above, there is much to indicate that work permits to work as a personal assistants for persons with disabilities will cease to be granted from June 2025.¹³⁸

5. Have statistics or databases been published in your country on foreigners or immigrants who are part of the personnel providing services in each of these care sector occupations?

The Occupational Register provide gender specific data on occupation, sector, level and orientation of education, age, region of residence, region of work. The register distinguishes between place of birth based on geographical regions, but it does not provide information on nationality. Generally, the data presented in the following is extracted from the Occupational Register.

In addition, the Labour Force Surveys (LFS) should be mentioned. Although it is not relevant to this specific question, it has informed other parts of this study. This data base provides gender specific data on labour market status, hours worked, absence from work, wages, sick pay, unemployment, level and field of education, civil status, and children, separate only between foreign-born and those born in Sweden. It does not provide data on nationality. Nor does it provide sector specific data.

The only group that can be distinguished by their nationality in openly available public statistics is labour immigrants applying for their first permit or for a prolongation, as the Swedish Migration Agency register the

¹³³ 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.

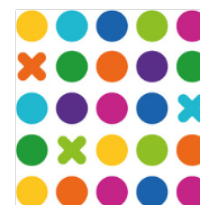
¹³⁴ Persons with a foreign background make up 37 percent of the employees in companies where the managers have a non-European background, and 27 percent of the staff where the managers have a Swedish background. The Association of Private Care Providers (2018) *Privat vård och omsorg. En integrationsmotor i vår tid*.

¹³⁵ Swedish Occupational Register 2022, see details below in Section 6.

¹³⁶ Government Inquiry Report SOU 2020:1, *Översyn av yrket personlig assistent. Ett viktigt yrke som förtjänar bra villkor*, p. 96.

¹³⁷ Swedish Migration Agency, statistics on work permits.

¹³⁸ Government Inquiry Report SOU 2024:15, *Nya regler för arbetskraftsinvandring*.



granted work permits with reference to nationality. However, this information is published separately from the information on occupational group. It is thus not possible to draw any conclusion about nationalities of the (very few) persons who have been granted a work permit for employment specifically in the care sector.

- If yes, which care sector occupations are they most employed in?

The occupations which have the largest share of employees are born outside Sweden is, first, care assistant where 53.3 % of the employees are born outside Sweden, second, assistant nurse in home care, home health care, elder care, where the number is 36.8 % and, third, personal assistant for persons with a disability where 34.8 percent are born outside Sweden.

- If there are statistics or databases, do these establish the “nationality” or origin of foreign personnel providing services in these sectors? What nationalities are predominant?

The Occupational Register provide data on place of birth based on geographical regions, but not information on nationality. For each occupation, the dominant geographical regions of birth outside Sweden are as follows:

nurse: Asia (5.5 %) Europe excl. Nordic countries (5.39 %)

assistant nurse in hospital ward: Asia (11.2 %) Europe excl. Nordic countries (7.65 %)

assistant nurse in home care, home health care, elder care: Asia (14.7 %) Africa (10.04 %)

care assistant: (25.9 %) Africa (17.34 %)

personal assistant, persons w. disability: Asia (14.8 %) Europe excl. Nordic countries (8.51 %)

- Do databases also distinguish by gender? If yes, please describe what the statistics show.

There is a statutory requirement that all public statistics on the individual level should be broken down by gender unless there are specific reasons against this.¹³⁹ Statistics are published regularly in the Swedish Occupational Register on occupations in the care sector, differentiated by, among others, place of birth based on geographical regions, and gender. For information on the databases, see above Part I Gender, Section 3.

In all care occupations, women are in the majority of the employees irrespective of region of origin. For detailed information, see Figure 2 below in Section 6.

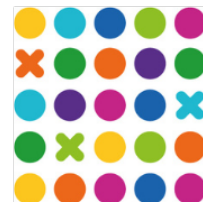
- Do databases exist for each of the occupations, with a distinction between labour migrants, refugees, and other categories of foreigners or migrants?

No.

- Do these databases present aggregated data, micro-data, or both (aggregated data: data at national or regional level; micro-data: individual data, collected but not published, only available to researchers)?

The Swedish Occupational Register is an individual register covering all persons over the age of 16 registered in Sweden, and it is updated every two years. It contains gender-disaggregated information on the occupation, place of work, income, and education of the working population, along with information place of birth based on geographical regions. Approximately 20 different administrative sources contribute occupational data to the register.

¹³⁹ Section 14 of the Ordinance (2001:100) on official statistics.



The register is organized according to the Standard Swedish Occupational Classification 2012 (SSYK2012), which is based on the International Standard Classification of Occupation 2008 (ISCO-08). The occupational data is classified at four-digit level, which corresponds to 429 classes. The database is made up of individual data.

- these databases public and freely accessible to everyone, or only to researchers?

The publicly available data accessible at the web page of Sweden Statistics is presented at a macro level by occupation, sector, region, sex, along with information place of birth based on geographical regions, see link below. Micro data is available upon request and at a charge to authorised clients, i.e Swedish universities and other entities for the purpose of a specific research project, as well as statistical authorities and public organisations for the purpose of limited statistical analysis. The individual data will be provided in pseudonymised form, whereby the identities of individuals are replaced by a serial number.

- If published databases exist, please provide links and/or how to request them.

The statistics can be accessed at:

https://www.statistikdatabasen.scb.se/pxweb/en/ssd/START_AM_AM0208_AM0208E/YREG53BAS/

6. Describe any statistics or databases you have encountered:

-Describe what these statistics show in relation to the nationality of the person working in the care sector and, if applicable, in relation to the gender by nationality of these staff.

The Occupational Register provide data on place of birth based on geographical regions, but it does not provide information on nationality. Of the occupations in the care sector, the proportion of foreign-born employees is lowest among nurses at 16.7 % born outside Sweden and just 8 % born outside Europe, followed by assistant nurses working on hospital wards at 28 % foreign-born with 19 % born outside Europe. In both these occupations, Asia is the most common region of birth outside Sweden, with Europe excluding the Nordic countries being the next most common. Also, there is a small share of assistant nurses working on hospital wards who were born in Africa. Other geographical regions are not represented to a substantial extent in these occupations. In the other end of the scale, the occupations which have the largest share of employees born outside Sweden is, first, care assistant at 53.3 % foreign-born with 45 % born outside Europe, second, assistant nurse in home care, home health care, elder care at 36.8 % foreign-born with 27 % born outside Europe, and third, personal assistant for persons with a disability at 34.8 % born outside Sweden with around 25 % outside Europe.

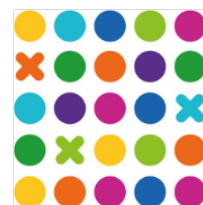
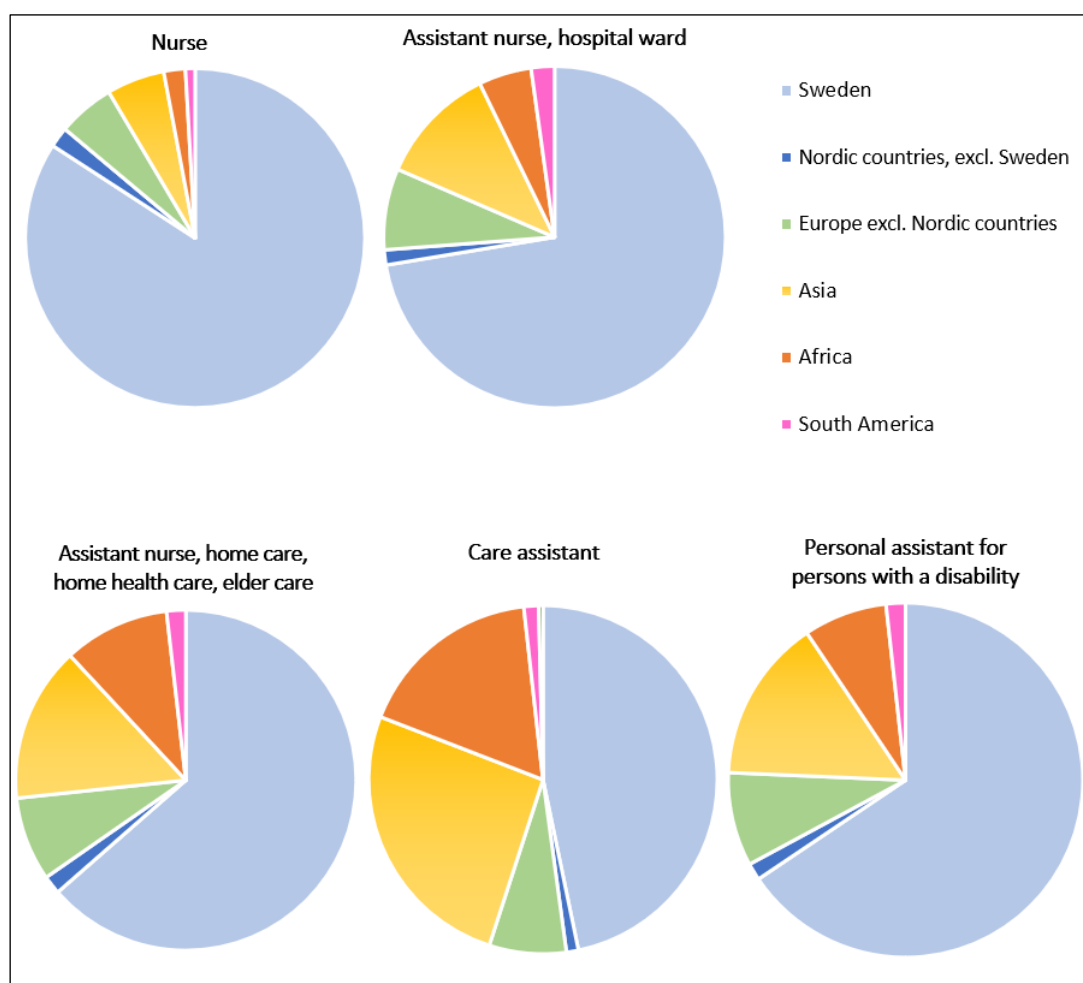


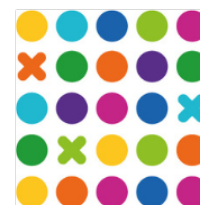
Figure 1. Employees by region of birth, percent per occupation (most frequent regions).



Swedish Occupational Register. Employees 16-64 years by occupation (4-digit SSK 2012), region of birth and sex. BAS. Year 2022.

Table 2. Employees by region of birth, percent per occupation (including all regions).

	Sweden	Nordic excl. Sweden	Europe excl. Nordic	Africa	Asia	South America	North & Central America	Other
Nurse	83,88	1,93	5,39	2,05	5,5	0,91	0,3	0,05



Assistant nurse, hospital ward	72,02	1,43	7,65	4,98	11,2	2,19	0,46	0,04
Assistant nurse, home care, home health care, elder care	63,23	1,75	7,95	10,04	14,7	1,81	0,48	0,04
Care assistant	46,7	1,11	7,14	17,34	25,9	1,37	0,39	0,07
Personal assistant, persons with a disability	65,2	1,55	8,51	7,58	14,8	1,75	0,5	0,07

Swedish Occupational Register. Employees 16-64 years by occupation (4-digit SSK 2012), region of birth and sex. BAS. Year 2022.

For those born in Sweden, women are in the majority of the employees in all care occupations with 89 % among nurses, 91 % for assistant nurses in hospital wards, 93 % for assistant nurses in home care, home health care and elder care, 81 % for care assistants, and 72 % among personal assistants for persons with a disability. The same pattern applies to employees born abroad: regardless of region of birth, women are in the majority in all care occupations. However, while there is a general dominance of female employees, in some occupations, the ratio of men to women is different for workers born in certain regions. Among employees born in Asia and Africa working either as care assistants or as assistant nurses in home care, home health care and elder care, and for employees born in Asia working as personal assistants for persons with a disability, the share of men is significantly higher than in all other groups.

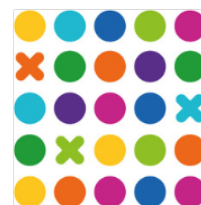
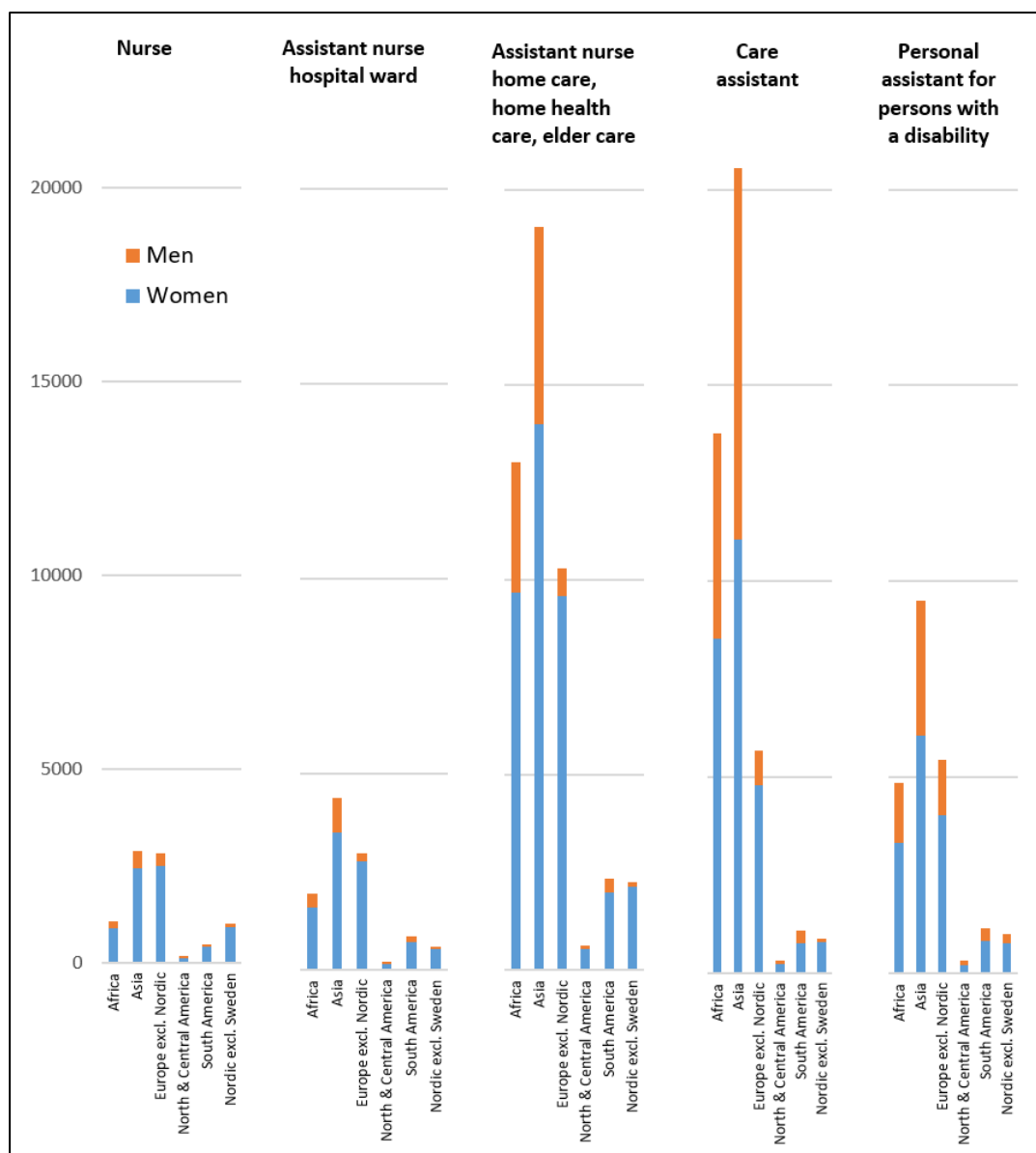


Figure 2. Employees by region of birth and sex, number per occupation (most frequent regions).

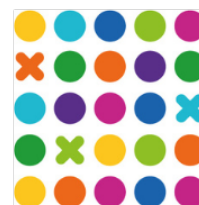


Swedish Occupational Register. Employees 16-64 years by occupation (4-digit SSSYK 2012), region of birth and sex. BAS. Year 2022.

-If you have found statistics or databases, please describe whether these show a distinction between general migrants, refugees, or other categories of migrants?

Generally, labour market statistics does not make any distinction between groups of immigrants with respect to the ground for residence permit. It is therefore not possible to know how many of the foreign-born employees in the care sector have immigrated as refugees or are staying in Sweden to study, for example.

The only category of immigrants that can be distinguished is labour immigrants applying for their first work permit or for a prolongation. The Swedish Migration Agency register decisions for these work permits with reference to occupational group. As described above, Section 4, among those born abroad who work in the health and care sectors, only very few are labour immigrants, i.e. people who's right to reside in Sweden is



based on a work permit. Between 2019 and 2023, the yearly average of work permits issued by Swedish Migration Agency was 29 permits for nurses, 63 permits for assistant nurses, 43 permits for care assistants and 103 permits for carers including personal assistants for persons with a disability.¹⁴⁰

7. Have statistics or databases been published on people working in the care sector, whether nationals of your country, EU, or non-EU nationals, differentiating them by race or ethnic origin, religion, or language?

- Do these databases present aggregated data, micro-data, or both (aggregated data: data at national or regional level; micro-data: individual data, collected but not published, only available to researchers)?

- Are these databases public and freely accessible to everyone, or only to researchers?

- If published databases exist, please provide links and/or how to request them.

Public labour market statistics only distinguish between foreign-born and those born in Sweden. It does not provide information on nationality, ethnic origin, religion, or language.

8. Describe what statistics or databases you have found, i.e., summarise and comment on the data found on participation in the care sector by workers on the basis of race or ethnicity, religion, and language.

Not applicable.

9. Have there been any legal disputes or conflicts publicised by the media about the race or ethnicity, religion or language of staff providing services in the care sector? If so, please describe the situation and the solutions provided.

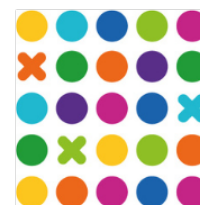
In recent years, increasing attention has been paid to quality deficiencies in the care sector, particularly in elderly care, due to insufficient knowledge of the Swedish language among employees. The matter has for instance been addressed in several Government Inquiry Reports, it has been the subject of a comprehensive report from the Municipal Workers Union Kommunal, and in their yearly reports, the Health and Social Care Inspectorate (IVO) has repeatedly highlighted serious negative effects of language shortcomings.¹⁴¹ In summing up the results of the inspections in the 2023, the Health and Social Care Inspectorate (IVO), reported that in 97 % of the municipalities, there are health and care workers in residential elderly care who lack enough knowledge of the Swedish language to understand what the patient expresses and to be able to convey this information correctly. Nearly one in five patients interviewed stated that they had experienced situations where they neither understood nor were understood by the health and care workers.¹⁴² These various reports have been covered by the media and sparked debate. Some municipalities have introduced language tests in recruitment to certain parts of the care sector, including elder care and personal assistance for persons with a disability. This development has been received positively by the Municipal Workers Union Kommunal, although at the same time the trade union cautions against the risk of ethnic discrimination in connection with the tests.¹⁴³ Statutory language tests that are required for certain professions are described below in Section 13.

¹⁴⁰ Swedish Migration Agency, statistics on work permits.

¹⁴¹ Government Inquiry Report (SOU 2019:20) *Stärkt kompetens i vård och omsorg*, p. 118; Government Inquiry Report SOU 2020:80 *Äldreomsorgen under pandemin- Delbetänkande av Coronakommissionen*, p. 107; Government Inquiry Report SOU 2021:52 *Vilja välja vård och omsorg – En hållbar kompetensförsörjning inom vård och omsorg om äldre*, p. 145; Municipal Workers Union Kommunal (2019) *Svenska språket – A och O inom äldreomsorgen*.

¹⁴² Health and Social Care Inspectorate (IVO) (2023) *Vad har IVO sett 2022?*; Health and Social Care Inspectorate (IVO) (2022) *Tillsyn av medicinsk vård och behandling vid särskilda boenden för äldre*.

¹⁴³ Erlandsson, Johan, 'Så många kommuner har språkstest i äldreomsorgen', *Kommunalarbetaren* 2022-12-14.



Another topic that has long been the subject of political and media debate is the use of religious symbols in public service, including in the health sector. One such issue has been the requirement for dentists to work with bare forearms for hygiene reasons.¹⁴⁴ The Swedish Labor Court has found that such a requirement is permissible and does not violate the prohibition of discrimination on grounds of religion.¹⁴⁵ As regards the wearing of a Muslim headscarf, which has been the subject of a number of judgments from the Court of Justice of the European Union, the Swedish Labour Court has tried one case, outside the care sector, and the judgement was in favor to the employee.¹⁴⁶ The Handbook for Healthcare for caregivers and healthcare personnel on regulations and provisions in health care states that if a head scarf is used, it should be secured so that it remains in place, hanging parts should be tucked into the neckline and it should be visibly clean.¹⁴⁷ Some Regions provide headscarves as part of the work clothes. In other Regions, employees are allowed to bring their own scarves, but they must be washed every day. In some regions and municipalities, political proposals have put forward to prohibit religious and political symbols from being worn by employees in the public care sector, but these proposals have not been acted upon.¹⁴⁸

10. Have statistics or databases been published in your country on the percentages of formal or informal employment that may affect the care sector?

- Do databases exist for each of the occupations, distinguishing between formal and informal employment and/or between foreigner and immigrant?
- Do you know whether these statistics or databases distinguish between work migrants, refugees, or other categories of foreigners or migrants?
- Do these databases also distinguish by gender?
- Do these databases present aggregated data, micro-data, or both (aggregated data: data at national or regional level; micro-data: individual data, collected but not published, only available to researchers)?
- Are these databases public and freely accessible to everyone, or only to researchers?
- If published databases exist, please provide links and/or how to request them.

There are no databases providing this information.

11. Describe or comment on any statistics or databases you have found regarding the participation of migrant workers in the care sector in either the formal or informal economy. Where statistics show data by gender and by category of migrants within the formal and informal economy, please comment on them or include a description of them.

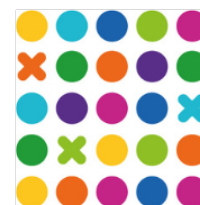
¹⁴⁴ The National Board on Health and Welfare Provisions SOSFS 2015:10 *Socialstyrelsens föreskrifter om basal hygien i vård och omsorg*.

¹⁴⁵ Swedish Labour Court judgement AD 2017 No 65; Julén Votinius, Jenny, 'Headscarves, Handshakes, and Plastic Underarm Covers. Recent developments on religion in working life in Sweden', *Hungarian Labour Law e-Journal* 2019/1, 88-99.

¹⁴⁶ Cases C-157/15 Samira Achbita and Centrum voor Gelijkheid van Kansen en voor Racismebestrijding v. G4 S Secure Solutions NV, EU:C:2017:203, C-188/15 Asma Bougnaoui, Association de Défense des Droits de l'Homme (ADDH) v. Micropole Univers SA, EU:C:2017:204; Joined Cases C-804/18 and C-341/19, IX v. WABE eV and MH Müller Handels GmbH v. MJ, Judgment of the Court (Grand Chamber) of 15 July 2021, EU:C:2021:594; C-344/20 LF v. SCRL, EU:C:2022:774; Case C-148/22 OP v. Commune d'Ans, EU:C:2023:924. Swedish Labour Court judgments AD 2023 No. 71.

¹⁴⁷ The Handbook for Healthcare is based on the Swedish Health and Medical Service Act (2017:30) and Social Services Act (2001:453), coordinated by the Swedish Association of Local Authorities and Regions, and dates back to the early 1990ies. It can be accessed online. The information on clothing was retrieved 2024-03-08 at <https://www.vardhandboken.se/vardhygien-infektioner-och-smittspridning/vardhygien/basala-hygienerutiner-och-kladregler/kladregler/>

¹⁴⁸ Such proposals have been put forward in recent years for instance in the Regions of Stockholm, Uppsala, Skåne and Västmanland, and in the Municipalities of Trelleborg and Varberg.



There are no statistics on the informal economy.

The statistics relating to occupational sectors, including the care sector, do not distinguish between categories of immigrants (i.e. by ground for residence permit).

12. Have any statistics or databases been published in your country on the possible presence of “undocumented” or “irregular” immigrants (without authorisation to reside or work in your country) who may be providing services in care occupations?

- Do these databases also distinguish by gender?

- Do these databases present aggregated data, micro-data, or both (aggregated data: data at national or regional level; micro-data: individual data, collected but not published, only available to researchers)?

- Are these databases public and freely accessible to everyone, or only to researchers?

- If published databases exist, please provide links and/or how to request them.

- Comment on any statistics or databases you have found regarding the participation of irregular or regular migrants in the care sector. Where statistics have been found which differentiate by gender, please comment on the data.

Generally, Sweden is estimated to be one of the countries in the EU with the lowest share of undeclared work.¹⁴⁹ Note that the estimates regard undeclared work in general and does not distinguish between employees who have the right to work in the country and those who have not. There is very limited knowledge of the number of immigrants residing in Sweden without a residence permit.¹⁵⁰

The sectors most likely to report competition from undeclared work are construction, restaurants, and transportation.¹⁵¹ There are no estimates on the incidence of undeclared work in the care sector.

It should be noted, though, that the topic of undeclared work is high on the political agenda, where it constitutes an important element of the wider range of abusive practices in working life that are referred to as working life crime.¹⁵² See below, Section 31.

13. Have measures been taken in your country to facilitate access to work specifically in the care sector for migrants? If yes, please describe them. Also indicate if this sector is understaffed (Are there staff shortages in the sector?).

In the entire care sector, the demand for labour is high and growing, and measures have been taken to facilitate access to work for labour immigrants in various care occupations. The current labour shortage of assistant nurses, care assistants, and personal assistants for persons with a disability is expected to become more severe and to increase to by 50 percent until 2040. Similarly, there is and will continue to be a shortage of nurses and of specialist nurses regardless of their area of specialisation.¹⁵³

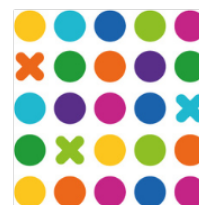
¹⁴⁹ European Labour Authority (2023) *Extent of undeclared work in the European Union*, February 2023. See also European Labour Authority (2021) *Tackling undeclared work in the personal and household services sector*, September 2021.

¹⁵⁰ Government Inquiry Report SOU 2022:36, *Arbetslivskriminalitet, en definition. En inledande bedömning av omfattningen. Lärdomar från Norge.*, p. 183. Swedish National Audit Office, *Statens insatser mot exploatering av arbetskraft. Regelverk, kontroller samt information och stöd till de drabbade*, RIR 2020:27.

¹⁵¹ Confederation of Swedish Enterprise (2021) *Konkurrensen med den svarta sektorn – ett stort problem för företagen och samhällsekonomin.*

¹⁵² Government Inquiry Report SOU 2023:8 *Arbetslivskriminalitet: arbetet i Sverige, en bedömning av omfattningen, lärdomar från Danmark och Finland*; Håkansta, Carin et al., 'Power resources and the battle against precarious employment: Trade union activities within a tripartite initiative tackling undeclared work in Sweden', *Economic and Industrial Democracy* 1–28 (2022).

¹⁵³ Statistics Sweden (2023) *Trender och Prognoser 2023 Befolkning Utbildning Arbetsmarknad Med sikte på år 2040*, p. 47, 101.



Every year, the National Board of Health and Welfare is required to assess the current and anticipated supply and demand for licensed health care professionals. The results are presented in a report called the National Planning Support. For 2023, the National Board of Health and Welfare reports that more than one third of the Regions have developed international recruitment programmes targeting EU/EEA countries or Switzerland, and that one fifth of the Regions are actively pursuing programmes targeting countries outside the EU/EEA and Switzerland, although this is reportedly subject to greater administrative difficulties. While these programmes have a good track record, the main challenge identified in the report (in addition to the challenge of bureaucratic constraints) regards the time required to develop sufficient language skills. Several regions are investing in language training and support for everyday use of the language. One region, Skåne, reports that it has set up an international office to support individuals to obtain a professional licence from National Board of Health and Welfare (see below) and in their search for work, and that 94 percent of the persons that they have supported have subsequently been employed in the services of the region.¹⁵⁴

The title of nurse is a protected professional title that requires a licence from the National Board of Health and Welfare. Since 1 July 2023, the same applies to the title of assistant nurse.¹⁵⁵ Those who were permanently employed as assistant nurses when the requirement entered into force will be able to continue to use the title until 30 June 2033 without a licence.¹⁵⁶ For persons who have received their education outside the EU/EEA, there are two ways to acquire a licence as a nurse; either by completing a supplementary university programme of 1-3 years, or by a process which includes validation of the foreign qualifications validated, a theoretical and a practical test, regulatory training, and clinical work under supervision corresponding to three consecutive months of full-time work within the same organisation. For assistant nurses who have received their education outside the EU/EEA a license can be obtained through a validation of the foreign qualifications along with a period of clinical work under supervision, normally equivalent to six consecutive months of full-time employment in the same organisation. In addition, in both cases, there is also a statutory requirement of proficiency in the Swedish language, or alternatively in Danish or Norwegian.¹⁵⁷ At present, there are no language requirements for care assistants and personal assistants for persons with a disability, although some changes can be expected shortly with regard to the elder care sector. A Government inquiry concerning the introduction of requirements for and measures to ensure proficiency in Swedish for employees in elder care is currently being conducted, with the due date of 1 September 2024.¹⁵⁸ This legislative development has been prompted by a number of monitoring reports highlighting important quality deficiencies in elder care resulting from insufficient language skills of employees in the care sector.¹⁵⁹ In 2021, the Government made a comprehensive targeted effort to improve the working language skills of employees in elderly care, including as care assistants and assistant nurses who lack sufficient knowledge of the Swedish language for their occupation. The initiative has continued over 2022 and 2023.¹⁶⁰ Language training, as well as supplementary vocational training, is provided through the public education system and in initiatives run by the social partners.

14. Describe whether migrants with residence and work authorisation have the same labour rights as other “national” workers in the care sector. Take into account the provisions of European law, according to which third-country national workers enjoy equal treatment with workers who are nationals of the

¹⁵⁴ National Board of Health and Welfare (2023) *Bedömning av tillgång och efterfrågan på legitimerad personal i hälso- och sjukvård samt tandvård. Nationella planeringsstödet 2023.*

¹⁵⁵ Chapter 4 Section 4 and 5 a of the Patient Safety Act (2010:659).

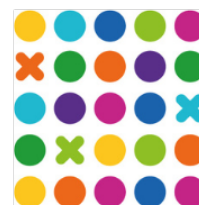
¹⁵⁶ Government Bill Prop. 2020/21:175, *Stärkt kompetens i vård och omsorg.*

¹⁵⁷ Chapter 6 of the Patient Safety Ordinance (2010:1369).

¹⁵⁸ Government Inquiry Remit Dir. 2023:44 *Språkkrav för personal i äldreomsorgen.*

¹⁵⁹ Government Inquiry Report SOU 2019:20 *Stärkt kompetens i vård och omsorg*, p. 118; Government Inquiry Report SOU 2020:80 *Nationell samordnare för kompetensförsörjning inom vård och omsorg om äldre.*

¹⁶⁰ Government Bill Prop. 2020/21:1 *Budgetpropositionen för 2021. Utgiftsområde 16 Utbildning och universitetsforskning*, p. 126.



Member State in working conditions or Social Security (art. 12 of Directive 2011/98/EU, of 13 December 2011, 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). Also, if your country has ratified them, ILO Conventions No. 97 (Revised) on migrant workers, 1949; and Convention No. 143 on migrant workers, 197.

Immigrants with a residence and work permit have the same labour rights as other employees. This applies on the entire labour market.

Sweden has ratified ILO Convention No. 143 on migrant workers, but not Convention No. 97 (Revised) on migrant workers.

15. Do the “labour” legislation (i.e., on working conditions) or, if applicable, collective agreements in your country, make any reference to the migrant or foreigner status of the person working in each of these care sector occupations?

No, in labour legislation or collective agreements on working conditions applicable to the care sector, there are no references to the status of workers as immigrants.

16. Have there been any court rulings on this matter? If so, please summarise or comment on them.

There have been no court rulings on this matter.

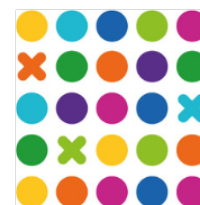
17. Does the legislation on foreigners or immigration in your country (e.g., on residence or work permits, family reunification, permit renewal, etc.) specifically mention people working in one of these care sector occupations? Have there been any court rulings on this matter? If so, please summarise or comment on them.

Normally, a labour immigrant must apply for work permit before entering into Sweden. There are certain exceptions from this requirement, one being when the application regards an occupation for which there is a shortage of manpower, according to a list issued and updated by the Swedish Migration Agency in collaboration with the Swedish Public Employment Agency.¹⁶¹ The list includes a number of occupations in the care sector, among which those of relevance for this study are Specialist nurses, Nurses and Assistant nurses.

Other than this, the regulatory framework on aliens or immigrants does not specifically mention people working in care sector occupations. However, as described above in Section 2, the recent government inquiry proposing changes to the provisions on labour immigration specifically points out groups of care workers in two regards. The first mentioning is in relation to the increased wage floor for granting of a working permit and the proposal that occupations for which there is a high labour shortage could be exempted from the stricter wage requirement. In addition to the list of occupations issued by the Swedish Migration Agency, the inquiry report specifically mentions medical doctors and nurses with a foreign exam who are employed in lower-paid occupations while waiting for a license from the Swedish National Board for Health and Welfare. The second concerns the proposal that certain professions should not be eligible for a work permit at all, where the inquiry report specifically points out work as personal assistants for persons with a disability.¹⁶²

¹⁶¹ Chapter 5 Section 18 of the Aliens Act (2005:716); Chapter 5 Section 12 of the Aliens Ordinance (2006:97); Swedish Migration Agency Provisions MIGRFS 2023:7.

¹⁶² Government Bill Prop. 2021/22:284, *Ett höjt försörjningskrav för arbetskraftsinvandrare*. The list of excluded occupational groups and the list of occupational groups with lower salary requirements are to be determined each year by the government.



18. Do migrants with the corresponding residency permit and authorisation to work in the care sector (in each of these occupations) have access to the same rights as other workers in other production sectors?

Yes.

19. Have there been any court rulings on this matter? If so, please summarise or comment on them.

There have been no court rulings on this matter.

20. Have there been any collective bargaining provisions to favour the integration of migrant workers in the care sector on the basis of their language, religion, particular difficulties in visiting their families in their countries of origin, ethnic origin, etc.?

The Swedish industrial relations tradition includes an involvement of the social partners in meeting labour market challenges and a readiness for collectively bargained solutions, sometimes in a tripartite form backed up with State subsidies. An important example of this is the so-called Introduction Agreements (*yrkesintroduktionsavtal*); collective bargained employment contracts on employment and education. These agreements emerged in 2010 in the industrial sector and originally for young workers, and then expanded to other sectors, before they were transformed into the current tripartite scheme which is partly financed by the state.¹⁶³ Since 2016, the scheme was expanded to also cover long-term unemployed and newly arrived immigrants.¹⁶⁴ Provided that there is a sectoral collective agreement on introduction employments in place, an economic incentive is payable for a maximum of 12 months, in the form of a wage subsidy and as a monthly economic supervisory support.¹⁶⁵ An example of an introduction agreement in the care sector is BAL20 which is applicable for care work in the municipal sector, such as home care services. This agreement covers unemployed or newly arrived immigrants with a need to combine employment with extensive induction and training measures to find work within their profession. In the introductory employment the employee works during 75 percent of the time and receive training and introductory measures during the remaining time. The wage is 75 percent of the minimum wage under the collective agreement in the sector, the employment must follow an introduction plan, and the employee must have a supervisor.¹⁶⁶ Normally, the supervisor must be trained as a supervisor at a so called Health and Care College, which an educational institution within the national educational system that has acquired a validation from the bipartite organisation Health and Care College.¹⁶⁷

As part of the Health and Care College, a language ambassador function has also been developed, along with training for these persons. Language ambassadors are employees in the care sector tasked with supporting colleagues in terms of language development. They work closely with their manager and have the task of developing language skills throughout the workplace and to improve communication.

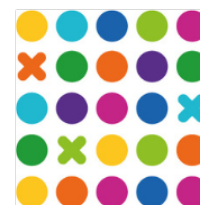
¹⁶³ In 2011, the Government invited the social partners to tripartite consultations on youth unemployment, and specifically on Introduction Agreements, Government Inquiry Report Ds 2013:20 *Vissa lagförslag med anledning av trepartssamtalen*.

¹⁶⁴ Ordinance (2016:366) amending ordinance on support for Introduction Agreements (2013:1157).

¹⁶⁵ Ordinance on support for Introduction Agreements (2013:1157). In July 2013, the support scheme was authorized by the European Commission under EU state aid rules, decision C (2013) 4053 final.

¹⁶⁶ BAL20 Collective Agreement on Introduction Employment between Swedish Municipalities and Regions together with Sobona, and Swedish Municipal Workers' Union, Public Employees' Negotiation Council (OFR) for general municipal activities, and AkademikerAlliansen from 2020-12-01 updated 2023-04-31.

¹⁶⁷ Since 2008, the social partners in the care sector have collaborated in the organisation Health and Care College to secure future workforce supply and promote collaboration. On application, educational programmes within the national educational system can be validated by the organisation,



Although not of immediate relevance for the care sector, it should also be mentioned that, already in 2017, the social partners in the private sector agreed to collaborate for the introduction of a new form of employment mainly designed for newly arrived immigrants, called establishment employments (*etableringsjobb*). The initiative was based on the premise that a large part of the wage costs was to be borne by the State. The Government and the social partners signed a declaration of intent whereby the Government agreed to support this joint initiative, and after the European Commission's approval of the scheme in 2022 and the following adoption of national legislation, the first sectoral collective agreements were negotiated in 2023.¹⁶⁸ There is no collective agreement on establishment employments for the care sector.

21. Do you know if there have been any conflicts publicised by media between migrant workers of the care sector and the people they care for in terms of non-discrimination on the basis of ethnicity, religion, or nationality? If so, please explain.

First, there is reason to once again mention the Swedish Labour Court case described above, in Part I Gender Section 16, where a personal assistant employed by a private company claimed to have been subjected to sexual harassment and harassment based on ethnicity by the cohabiting partner of the assistance recipient, and where the Labour Court found that the employer could not be held liable under the Discrimination Act (2008:567) although stressing that the employer is responsible for the health and safety at the workplace under the Work Environment Act (1977:1160) which was not invoked in the case.¹⁶⁹

The second case that should be mentioned here is not a case of actual discrimination of an individual, but a series of cases staged by journalists. In 2017, a Swedish Radio broadcasted a story where a journalist had contacted seven municipalities in Norrland, claiming to represent an elderly parent who requested homecare services but was unwilling to be cared for by non-Swedish carers.¹⁷⁰ All but one municipality replied that the request could probably be met. The story was widely reported and sparked public debate. The Equality Ombudsman initiated supervisory inspections of the seven municipalities. The purpose of the inspections was not to establish whether any employee had been discriminated against in an individual case – indeed, there had been no allegation of this – but to carry out a general audit of the compliance with the statutory requirements relating to the promotion of equal treatment. As part of the monitoring process, the municipalities were asked to give their comments on the media reports. The Equality Ombudsman stated that if there had been a possibility to opt out of certain care workers based on ethnic background, this would constitute ethnic discrimination. In the end, the Equality Ombudsman did not find grounds for criticism in any of the seven supervisory decisions, as the municipalities were found to work actively with promotion and prevention in the areas of recruitment and working conditions.¹⁷¹ A similar story came in 2021: two reporters at a national newspaper called 120 public and private primary care centers and dental clinics across the country to request an appointment with an ethnically Swedish medical doctor or dentist.¹⁷² In 50 of the cases, they received an affirmative answer. As a response to the reports, the Equality Ombudsman initiated a meeting with

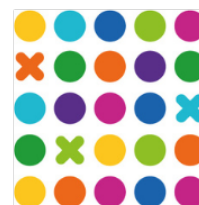
¹⁶⁸ Declaration of Intent of 5 March 2018 between the Government, the Swedish Trade Union Confederation (LO), Unionen and the Confederation of Swedish Enterprise; Decision of the European Commission 16 May 2022, SA.100209 (2022/N); Ordinance (2022:807) on Public Compensation for Work in Establishment Employment.

¹⁶⁹ Swedish Labour Court judgement AD 2017 nr 61.

¹⁷⁰ Radio Sweden *Local authorities offer clients right to refuse "foreign" care staff*, 2017-05-30, <https://sverigesradio.se/artikel/6707244>

¹⁷¹ Supervisory decisions of the Equality ombudsman: GRA 2017/101; GRA 2017/102; GRA 2017/103; GRA 2017/104; GRA 2017/105; GRA 2017/106; and GRA 2017/107.

¹⁷² Sadikovic, Adrian and Christy Chamy, 'Patienter tillåts välja läkare med enbart svenskt ursprung – över hela landet', *Dagens Nyheter* 2021-07-26.



representatives from the Regions to clarify the legal requirements under the Discrimination Act (2008:567) and the responsibility of the Regions in their capacity as employers.¹⁷³

22. Have any statistics or databases been published in your country on migrant workers' salaries in the care sector?

- Have any statistics or databases been published in your country on the occupational classification of migrant workers in the care sector?

- Do these databases present aggregated data, micro-data, or both (aggregated data: data at national or regional level; micro-data: individual data, collected but not published, only available to researchers)?

- Are these databases public and freely accessible to everyone, or only to researchers?

- If published databases exist, please provide links and/or how to request them

The public statistics on wages in each occupation does not distinguish between persons born in Sweden and persons born abroad.

Upon request, researchers may obtain some relevant information for the years 1968-2018. The data is provided in a sample-based longitudinal individual database for research, LINDA. The database provides information on income development for various groups over a long period of time, but it is not being updated as the collection of data for this database has been considered to lack legal support.

The Occupational Register provide data for each occupation on the employees based on, inter alia, place of birth based on geographical regions. It does not provide information on nationality. See above Section 5-6.

23. If you have found statistics or databases, please describe what they show in relation to the job classification and wages of migrant workers in the care sector.

Not applicable.

24. Are migrants in an undocumented situation (without authorisation to reside or work) entitled to employment rights when working in the care sector in your country? Please outline your views on this issue.

As a rule, labour law applies to all employees. The status as an employee is determined according to established principles of labour law, and it follows already from case law dating back to the late 1970'ies that the status as an employee is not dependent on whether the person has the authorisation to reside in Sweden or has a work permit.¹⁷⁴ An employee without a residence or working permit is entitled to wages in accordance with collective agreements or customs and is obliged to pay income tax on those wages, and the employer must apply statutory rules on working hours, annual leave, as well as on health and safety.¹⁷⁵ In contrast, the employee has no actual employment protection. This is because the employment is illegal; the employer cannot be required to commit a criminal offense.¹⁷⁶

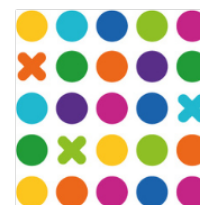
A fundamental rule in Swedish labour law is that when a collective agreement is in force at a workplace, the employer is always obliged to apply that agreement to all employees, including those who are not members of

¹⁷³ Equality Ombudsman, retrieved 2024-03-08, <https://www.do.se/om-do/pressrum/aktuellt/2021/2021-09-17-tema-for-dialogmote-hantering-av-onskemal-om-etnisk-tillhorighet-i-varden>

¹⁷⁴ Swedish Labour Court judgements AD 1979 No 90 and AD 1991 No 49, see below Section 25. Selberg, Niklas, 'The Laws of Illegal Work and Dilemmas in Interest Representation on Segmented Labour Markets: A Propos Irregular Migrants in Sweden', 35 *Comparative Labor Law & Policy Journal* Vol. 35:247 (2014).

¹⁷⁵ Government Bill Prop. 2012/13:125 *Genomförande av direktivet om sanktioner mot arbetsgivare*, p. 24, 80 f.

¹⁷⁶ Swedish Labour Court judgements AD 1979 No 90 and AD 2012 No 34, see below Section 25.



the trade union. This obligation arises from the collective agreement and, normally, it can only be invoked by the trade union – the employer’s counterpart in the collective agreement – and never by the non-unionized worker him- or herself. However, for employees without a residence or working permit, the situation is different. Under the Act (2013: 644) on the right to pay and other compensation for work performed by an alien not entitled to stay in Sweden, adopted as part of the national implementation of Directive 2009/52/EC on sanctions and measures against employers of illegally staying third-country nationals, an employee in this situation may invoke the collective agreement in a wage claim even if he or she is not a member of the trade union. Moreover, in a wage dispute, unless proven otherwise, the employee is presumed to have performed three months of full-time work.¹⁷⁷

Although the employee may invoke these rights provided by labour law, in practice, these rights may be difficult to realise, at least as long as the employee is still hiding from the authorities. To reside and to work in Sweden without having adequate permits constitutes criminal offences. This means that, apart from most likely having to leave the country, the employee also risks penalties or even, in some specific cases regarding illegal residence, imprisonment.¹⁷⁸ See further below, Section 31.

25. Have there been any court rulings on this matter? If so, please summarise or comment on them.

There have been a few relevant court rulings on this matter, none of which particularly concerns the care sector. The first case is from the late 1970’ies. It raised the question of whether an employer could terminate an employment contract notwithstanding the rules on notice in the Employment Protection Act, on the grounds that the employee had been denied a continued residence and work permit. The Swedish Labour Court stated that a person who is employed without having work permit is nevertheless to be considered an employee which means that labour law is applicable. However, in the case in question, the Employment Protection Act had to be set aside as the employer would have been committing a crime had the employment lasted as long as the notice period required.¹⁷⁹

That the lack of a work permit is irrelevant for the status as employee was confirmed in the second case, more than ten years later. Based on an overall assessment, including the fact that the workers in question had received wages and had been required to follow the directives of the management, the Labour Court concluded that they were to be regarded as employees.¹⁸⁰

In a third case, the Labor Court ruled that, in terms of wage claims, an employee who lacks a work permit is never considered to be at the employer’s disposal during time when the employee is not working. Since the employer is not legally permitted to let the employee work for the company, the employee cannot, in the same way as other workers, be entitled to pay for time in which the he or she only has been available for work without actually working.¹⁸¹

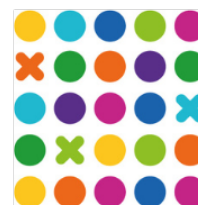
¹⁷⁷ Section 5 of the Act (2013: 644) on the right to pay and other compensation for work performed by an alien not entitled to stay in Sweden. Government Bill Prop. 2012/13:125 *Genomförande av direktivet om sanktioner mot arbetsgivare*, p. 81.

¹⁷⁸ Chapter 20 Section 1-3 of the Aliens Act (2005:716). Selberg, Niklas, ‘Om kriminaliseringen av papperslösas arbete och argumenten för att avskaffa den’. In: Calleman, Catharina and Petra Herzfeld Olsson (eds.) *Arbetskraft från hela världen* (Delmi 2015:9); Inghammar, Andreas, ‘The Employment Contract Revisited. Undocumented Migrant Workers and the Intersection between International Standards, Immigration Policy and Employment Law’, *European Journal of Migration and Law* 12 (2010) :193214.

¹⁷⁹ Swedish Labour Court judgment AD 1979 No 90.

¹⁸⁰ Swedish Labour Court judgment AD 1991 No 49.

¹⁸¹ Swedish Labour Court judgment AD 2012 No 34.



26. With the onset of the Covid-19 pandemic, measures were adopted by the State to allow “undocumented” foreign personnel to obtain residence or work permit, both structural and extraordinary?

No

27. From the onset of the Covid-19 pandemic to the present day, have measures been taken by the State to allow “undocumented” foreign personnel providing services “in the care sector” to obtain residence or work permits?

No

28. If there are Equality Bodies or Organisations fighting racial, ethnic, or religious discrimination in your country, have they undertaken any action or produced any report in relation to the rights of migrant workers in the care sector? If yes, please describe this report.

The equality body in Sweden, the Equality Ombudsman, has not published any reports or conducted general monitoring in relation to the rights of immigrant workers in the care sector.

29. If there are Equality Bodies or Organisations fighting racial, ethnic, or religious discrimination in your country, have they undertaken any action or produced any report in relation to the rights of people, whatever their nationality, working in the care sector? If yes, please describe this report.

The equality body in Sweden, the Equality Ombudsman, has not published any reports in relation to the rights of immigrant workers in the care sector.

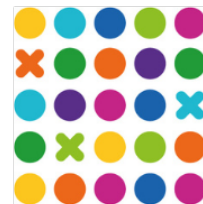
There has been one monitoring activity in the care sector, relating to the ground of ethnicity. This activity, which concerned seven municipalities in Norrland has been described above in Section 21. In addition, as described in the same Section, following the media report that patients could opt out from non-Swedish medical doctors or dentists, the Equality Ombudsman has initiated a meeting with representatives from the Regions to clarify the legal requirements under the Discrimination Act (2008:567) and the responsibility of the Regions in their capacity as employers.

30. Comment whether your State has adequate legislation on harassment (including gender-based harassment and sexual harassment) of women workers in the domestic sector, especially if they are migrant workers. Comment whether the worker's employer (including migrant workers) can be held responsible for such situations.

To answer this issue, please consider the Directive 2012/29/EU of 25 October 2012 establishing minimum standards on the rights, support, and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA; or Convention (Council of Europe) on preventing and combating violence against women and domestic violence, adopted on 7 April 2011 (Istanbul Convention)

See above, Part I Gender, Sections 15 and 16.

31. Comment on whether there are mechanisms in the legislation against cases of exploitation in the workplace with regard to undocumented or irregular migrant workers (without residence authorisation). Comment on whether in these cases migrants in an irregular situation can denounce or have access to the courts in cases of exploitation and labour exploitation. Also, whether there are cases in the legislation in which they can obtain a residence authorisation. To answer this issue, please take



into account the Directive 2009/52/ of 18 June 2009 providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals.

Following a deregulation of the labour immigration provisions in 2008, the matter of work force exploitation, including the situation for employees who lack a residence or work permit, became topical in the political debate.¹⁸² Over the years, the matter has gained growing attention. The sectors most likely to report competition from undeclared work are construction, restaurants, and transportation.¹⁸³ There are no estimates on the incidence of undeclared work in the care sector.

In the latest years, the matter has been increasingly high on the political agenda and a large number of preventive and responsive measures have been taken in the larger field of exploiting and fraudulent activities labelled Work-related Crime.¹⁸⁴ The measures include inter alia increased emphasis on and funding of cooperation government agency cooperation, the establishment of two regional centres to combat work-related crime, the establishment of a large number of governmental inquiries on related matters, and the adoption of the first national strategy to combat work-related crime.¹⁸⁵ There has been important engagement from the side of the social partners in some of the affected industries, and also from other actors.¹⁸⁶ Legislative changes have been adopted and yet other legislative changes are currently underway, following the recently delivered and ongoing governmental inquiries.¹⁸⁷ It must be emphasised that there is very limited knowledge of the number of immigrants residing in Sweden illegally.¹⁸⁸ Although this group has been addressed in the discussions and legislative activities on labour exploitation, the focus has not been on these workers, but instead but on workers who have residence permits in Sweden but are still vulnerable: asylum seekers, people with work permits, international students and people with residence permits with long-term resident status in another EU country.

Employing a person who lacks a working permit is a crime under the Aliens Act (2005:716), and the employer faces the risk of penalty or up to one year of imprisonment.¹⁸⁹ Irrespective of whether charges has been

¹⁸² Before 2008, work permits required a labour market test on the need for foreign manpower. Following the deregulation, several scandals appeared between 2009 and 2014, relating to employment of Thai wild-berry-pickers. In a joint effort between the Swedish Migration Agency, trade unions and some companies in the food retail industry, important improvements were achieved including collectively bargained wages for many of the berry-pickers, Olsson, Petra Herzfeld, 'Towards Protection of Vulnerable Labour Migrants in Sweden: The Case of the Thai Berry Pickers'. In: Rijken, Conny and Tesseltje de Lange (eds.) Towards a Decent Labour Market for Low-Waged Migrant Workers, Amsterdam: Amsterdam University Press, 2018, pp. 149-168.

¹⁸³ Confederation of Swedish Enterprise (2021) *Konkurrensen med den svarta sektorn – ett stort problem för företagen och samhällsekonomin*.

¹⁸⁴ Government Inquiry Report SOU 2022:36, *Arbetslivskriminalitet, en definition. En inledande bedömning av omfattningen. Lärdomar från Norge*, p. 80 ff.

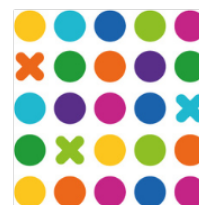
¹⁸⁵ Government Inquiry Report SOU 2024:14 *Arbetslivskriminalitet: Myndighetssamverkan. En gemensam tipsfunktion. Lärdomar från Belgien och gränsöverskridande arbete*; Government Inquiry Report SOU 2024:15 *Nya regler för arbetskraftsinvandring*; Government Inquiry Report SOU 2023:8 *Arbetslivskriminalitet: 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*.

¹⁸⁶ Government Inquiry Report SOU 2023:8 *Arbetslivskriminalitet: arbetet i Sverige, en bedömning av omfattningen, lärdomar från Danmark och Finland*, particularly Chapter 2.

¹⁸⁷ Government Inquiry Remit Dir. 2023:68 Tilläggsdirektiv till Delegationen mot arbetslivskriminalitet (A 2021:04).

¹⁸⁸ Government Inquiry Report SOU 2022:36, *Arbetslivskriminalitet, en definition. En inledande bedömning av omfattningen. Lärdomar från Norge*, p. 183. Swedish National Audit Office, *Statens insatser mot exploatering av arbetskraft. Regelverk, kontroller samt information och stöd till de drabbade*, RIR 2020:27.

¹⁸⁹ Chapter 20 Sections 3 and 5 of the Aliens Act (2005:716).



brought, the employer must also pay a special charge to the State, which is counted per case of illegal employment and increases if the employment has continued for a longer period than three months.¹⁹⁰

In addition to criminal liability under the immigration legislation, an employer can in some cases also face criminal charges under the Criminal Code (1962:700) for the crime human exploitation for labour, introduced in 2018 to complement and strengthen the existing criminalisation of human trafficking for forced labour which had existed since 2004.¹⁹¹ The penalty for human exploitation is imprisonment for a maximum of four years or, in for gross crime, imprisonment for a minimum of two and a maximum of ten years, which is also the penalty for human trafficking for forced labour. There are two forms of labour exploitation: forced labour, which also includes force by threats to report a worker who lacks residence or work permit to an authority, and work under clearly unreasonable conditions, which refers to working conditions that are so bad that, on an objective overall assessment, they deviate in a striking and negative way from what is considered acceptable in the labour market.¹⁹² It has proven difficult to hold an employer accountable for human exploitation, as the victim is usually required to cooperate in order for the prosecutor to be able to bring charges. The inquiry committee tasked to propose improvements to the system against labour exploitation has recommended the legislation be reviewed and new criminal classifications be introduced.¹⁹³ The inquiry committee is still working. In February 2024, its remit was amended, and a due date set to early 2025.¹⁹⁴

As discussed above in Section 24, the right to wages for employees who lack a residence or work permit is laid down in a separate legislative act.¹⁹⁵ Whereas criminal cases are initiated and brought before court by the prosecutor, in a civil case on wage claims or other labour rights, questions regarding access to court arise. In individual labour disputes, Swedish employees normally are represented by their trade union. However, employees lacking permit to stay and to work in Sweden, are usually not members of a trade union, and not all trade unions allow them to become members.¹⁹⁶ In 2008, a number of trade unions formed an association to help and support workers without a residence or working permit in the Swedish labour market. Through this association, persons who are in Sweden without permission can obtain information about their rights in the labour market and receive advice on wages, working conditions and the work environment, and they can also get help to enforce their rights. The importance of this association was emphasised in the legislative process to implement Directive 2009/52/EC on sanctions and measures against employers of illegally staying third-country nationals.¹⁹⁷ Nevertheless, in the ten years of its existence, the act on wage protection has in practice proved

¹⁹⁰ Chapter 20 Sections 12 of the Aliens Act (2005:716). The charge is half of the price base amount under the National Insurance Act (1962:381) or, for employments longer than three months, a full price base amount. For 2024, the price base amount is 5000 Euro. The charge must not be paid if the employer, before concluding the employment contact, has asked the employee for a copy of the residence permit, and informed the authorities.

¹⁹¹ Chapter 4 Sections 1 a and b of the Criminal Code (1962:700). Sjödin, Erik (2021) 'Criminalisation as a response to low wages and labour market exploitation in Sweden', *European Labour Law Journal*, 12(4), 529-546.

¹⁹² This could for instance be a particularly low or no wage, unreasonably long working days, exposure to unacceptable safety risks at work, or that the employer deducts unreasonably high payments from the wage for travel, food or accommodation, Government Bill Prop. 2016/17:272 *Det straffrättsliga skyddet mot människohandel och människoexploatering*, p. 60.

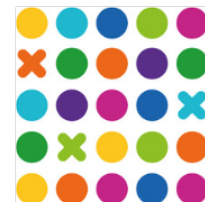
¹⁹³ Government Inquiry Report SOU 2023:8 *Arbetslivskriminalitet: arbetet i Sverige, en bedömning av omfattningen, lärdomar från Danmark och Finland*, p. 294. Cf. Herzfeld Olsson, Petra, 'Konsten att inkludera arbetskraftsmigranter i den svenska arbetsrättsliga modellen', *Juridisk Tidskrift* 2019/20(3):638-70.

¹⁹⁴ Government Inquiry Remit Dir. 2023:68 *Tilläggsdirektiv till Delegationen mot arbetslivskriminalitet (A 2021:04)*.

¹⁹⁵ Section 5 of the Act (2013: 644) on the right to pay and other compensation for work performed by an alien not entitled to stay in Sweden.

¹⁹⁶ Neergaard, Anders, 'Fackföreningsrörelsen och arbetskraftsinvandring'. In: Calleman, Catharina and Petra Herzfeld Olsson (ed.) *Arbetskraft från hela världen – hur blev det med 2008 års reform?* (Delmi 2015:9).

¹⁹⁷ Directive 2009/52/EC of the European Parliament and of the Council of 18 June 2009 providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals; Government Bill Prop. 2012/13:125



to provide very little, if any, protection. The lack of a well-functioning support and protection process and insufficient opportunities for compensation for victims of labour exploitation has been pointed out as a shortcoming and reason for further action.¹⁹⁸

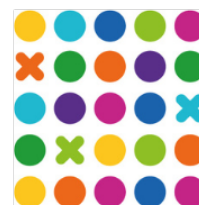
Under the Aliens Act (2005:716), in a criminal case, the prosecutor may apply to the Migration Agency for a temporary residence permit for an alien if this is necessary for the preliminary investigation or the main hearing, and if the alien has shown a clear intention to cooperate with the investigating authorities. Under this provision, a person who has been employed while illegally residing in Sweden may obtain a temporary residence permit, which includes right to work and right to medical care. The residence permit shall be issued for a maximum of six months and may be renewed the prosecutor.¹⁹⁹ After this, in cases where there is a pending civil action against the employer for unpaid wages, the employee may apply for further renewal of the residence permit.²⁰⁰

Genomförande av direktivet om sanktioner mot arbetsgivare, p. 90. The association is called Fackligt Center För Papperslösa (FCFP),

¹⁹⁸ Government Inquiry Report SOU 2024:14 *Arbetslivskriminalitet: Myndighetssamverkan. En gemensam tipsfunktion. Lärdomar från Belgien och gränsöverskridande arbete*, p. 204.

¹⁹⁹ Chapter 5 Section 15 of the Aliens Act (2005:716).

²⁰⁰ Chapter 5 Section 15 d of the Aliens Act (2005:716).



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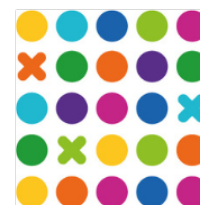
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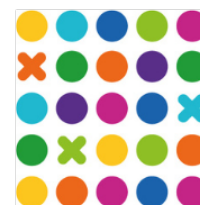
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- Government Bill Prop. 1997/98:179 *Lag om förbud mot diskriminering i arbetslivet av personer med funktionshinder.*
- Government Bill Prop. 1997/98:180 *Lag om förbud mot diskriminering i arbetslivet på grund av sexuell läggning.*
- Government Bill Prop. 2005/06:185 *Förstärkning och förenkling - ändringar i anställningsskyddslagen och föräldraledighetslagen.*
- Government Bill Prop. 2012/13:125 *Genomförande av direktivet om sanktioner mot arbetsgivare.*
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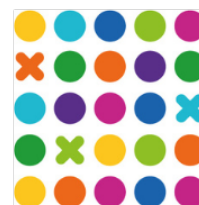
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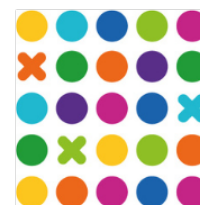
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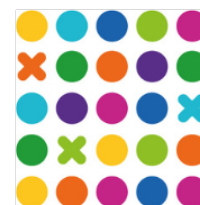
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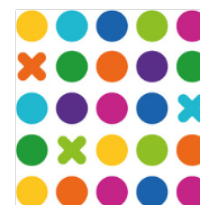
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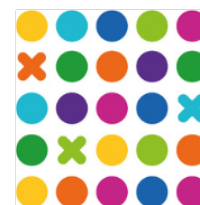
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